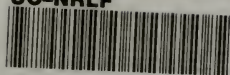


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AN INQUIRY  
INTO THE  
LEGISLATION, CONTROL, AND IMPROVEMENT  
OF THE  
SALMON AND SEA FISHERIES  
OF IRELAND.

BY  
HERBERT FRANCIS HORE.

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"The laws live only where the law doth breed  
Obedience to the works it binds us to."

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## P R E F A C E .

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THIS *brochure* might perhaps better have been termed an 'Essay' than an 'Inquiry,' because the subjects, both of the Salmon and Sea Fisheries, are incompletely treated; and it may be hoped they will receive further investigation under abler hands.

An acknowledgment must be made of much assistance in the compilation, obtained from reviews, pamphlets, and other sources. This has enabled me to correct my own earlier views on several questions relating to River Fisheries, and to learn how carefully opinions should be formed on any matter of difficulty, requiring knowledge and judgment. Some apology is due for not having, in the following pages, always treated a serious subject in a serious manner.

Two plain questions arise, in considering the present state of the Irish Fisheries.

Why should the Law give a new or additional property in Salmon-fishing to any man? *for any other reason?*

Why should not Government aid, which is received by the Sea Fisheries of Scotland, be also extended to those of Ireland?

With reference to the latter question, it is of course to be wished that Irish fishermen were independent of assistance; but whatever is likely to prove of service to them, we may hope will be accorded.

With respect to the first, I may state, that since leaving England I have had much insight into the practical operation of the Law,—during a residence of nine years on the river Slaney,—as well as in the course of experience formed on the bench,—and also as secretary to a Fishery Protection Society, after the passing of the Act of 1842, and as a conservator for the Wexford districts under the recent Act.

Not being an angler, or connected with fisheries, I may claim to be exempt from advocating any particular interest.

The Act of 1842 appears to have dealt with the Salmon Fishery question not only with impolicy—but injustice. Although the last advice given to the ‘brotherhood’ by their patriarch is the memorable counsel—‘*study to be quiet*,’—some anger would have been felt even by the gentle linen-draper of Fleet-street, could he visit Ireland to pursue his sport in our times. I have witnessed the *seriously* unjust effects of the Act, in depriving of their livelihood numerous fishermen, who formerly took Salmon by means of boats and nets.

The difficulties and costliness of law present impediments to the attainment of justice in many cases connected with River Fisheries.

The Slaney, where I live, is broad and tidal :—any exclusive privileges of fishing have ceased by disuse. A little stream winds through a valley into that river,—in former days—when its banks were marshy, and the country unprovided with roads and bridges—this rivulet presented an impediment, in travelling down to the county town, to persons who lived higher up in the country; floods—either from rain or high tides—frequently inundated the valley, and it then became impassable. To keep a passage over this water as often as the Courts of Session were held at the Assize town—was the service\* by which that valley was held when feudal tenures were customary in Ireland. It is gratifying to think that a somewhat analogous service will be performed, if these pages shall forward the cause of justice in any degree, either by promoting access of the Salmon tribe to those further up in the land, or by at all facilitating to the public an access to the Courts of Law in respect of our River Fisheries.

H. F. H.

POLE-HORE, WEXFORD, 29th May, 1850.

\* MS. vol. ‘Wardships,’ 1598—Ulster’s Office, vol. ii., p. 68; and Inquis. Canc. Hib. Repert. Lageniæ, Wexford, No. 33, Car. I. 1629; folio, Dublin, 1826.



# SALMON AND SEA FISHERIES OF IRELAND.

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## CHAPTER I.

### PREFATORY REMARKS.

DURING this dark period of the fortunes of our country, while a mysterious visitation and a succession of social adversities weigh with overwhelming force upon the land, whoever would seek for light through the gloom, must turn anxiously to the consideration of those means for the restoration of national prosperity which Providence places within our reach.

One of the elements of that prosperity will be found in the munificent stores of Fish,—as resources of employment and wealth—not only surrounding our island, but even, by the laws of nature, penetrating its inland recesses.

As a department of industrial occupation, in which native industry and enterprise may be rendered available for the increase of the comforts of the people, and to the advantage of the empire, the Fisheries of Ireland are deserving of a large share of attention.

At such a time, an inquiry into the causes of their present depressed state may serve a useful purpose.

The fisheries of the United Empire have frequently obtained the earnest solicitude of the Legislature. Within the last three centuries, no less than thirty statutes have been enacted for the regulation of those of Ireland alone.

An inquiry into the circumstances of the Irish fisheries generally was made some years since by a Special Commission; subsequent to which a consolidating Act of Parliament was passed for their complete regulation, and their care intrusted to a Board of Commissioners. Recently, the state of the inland branch has been investigated by a Select Committee of the House of Commons.

In essaying to lay suggestions before the public for the improvement of the salmon and sea fisheries of Ireland, it is necessary to enter into a review of the measures proposed for some years past towards that object, and to trace out faithfully the policy that guided their adoption, and the consequent exercise of the necessary powers. In such an endeavour no better means can be found than are elicited by the recorded opinions either of parliamentary committees, of special commissions, or the



matured observations of commissioners of fisheries, accompanied by such remarks as may show where the policy or principles laid down would seem to have been erroneous, or incorrectly applied.

An essay of this description will perhaps be serviceable in spreading knowledge on a subject of much importance to this country—one on which there appears to be a want of general information, and a long and lamentable neglect of invigorating measures towards its development, as a great natural resource.

#### VALUE AND IMPORTANCE OF THE SALMON FISHERIES OF IRELAND.

The value and importance of the Salmon Fisheries of this country, as a source of national wealth, has always been considerable, and their regulation and improvement has accordingly occupied the attention of its rulers for many ages. The extent to which their produce is susceptible of being increased depends upon various causes:—among these the most prominent are the advantages conferred by nature. A slight survey of the geographical character of Ireland,—of her numerous rivers and broad lakes, more in number and more suited by natural character and qualities as nurseries for the salmon tribe than are found in any similar area of country—attributable partly to the humidity of the climate,—will show the extent to which they may be cultivated, considering the vast field thus afforded for spawning-ground, and shelter for the parent fish and brood.

The absence of populous commercial cities, which destroy the fishery of the rivers on which they are seated, and the characteristics of our tributary streams—their clear and rapid flow over beds of gravel, such as are required by the peculiar constitution of the salmon kind for breeding purposes—point out the Inland fisheries of this country as possessing capabilities superior to those of Great Britain.\* Those of England have

\* A paper on the salmon fisheries was given to the Select Committee of 1824 by the eminent naturalist and philosopher, Sir Humphrey Davy, in which the habits of the salmon are briefly traced, and thence the theory laid down for its preservation. It appears that the *ova* of the *salmo* genus require running water to insure vitality—water saturated with air; they must be constantly washed by fresh portions of water, in a rapid stream, or under a current. This fact shows the necessity for that wonderful instinct of the fish, which, preparatory to the breeding season, leads them to quit the sea, and force their way through rapids, over falls, and through great lakes, to the remote sources of rivers, where their eggs may be deposited in pure aerated water. When the warmth of the atmosphere vivifies the eggs, the fry are described as rising from their gravelly bed like a thick braird of grain, or sprouting like barley in process of malting. The tail comes up first, and they float to the surface with the shell of the pea attached to their heads. The number of eggs in a single roe is said to average 17,000; but of this great increase from a pair of salmon, only an average of 800 are believed to come to perfection, the spawn being either destroyed, or the fry and young fish devoured by natural enemies, such as trout, the larger tribe of fishes of the sea, and herons, otters, and eagles on land. Sir Humphry Davy was a brother of the angle, and accordingly his views as to 'protection

been either destroyed by the advances of civilization, or her rivers are in general sluggish and muddy, or their course impeded by numberless artificial obstructions. Those of Scotland, with, on the other hand, less extent of natural advantages, than those of this island, having fallen mostly into the possession of private individuals, and, being uninjured by many causes that militate against the latter, have been well legislated for and protected, and they are consequently of great value.

It must be impracticable to estimate with accuracy the amount of increase of which our salmon fisheries are capable, supposing that the best means were employed to raise them to their maximum; but from the evidence adduced of success hitherto obtained it is not presuming too far to assert, that their present returns might be increased from *four to ten fold*.\*

There can be no doubt but that in remote times the rivers of these islands supplied a principal article of food to their rude inhabitants before the use of civilized machinery for capture, and whilst the population was thin and scattered.† The traces

are extreme. In his '*Salmonia, or, Days of Fly-fishing*,' he has dispelled the error as to the barbarity of this sport, by proving the slight pain that cold-blooded animals suffer, and that their horny mouths are insusceptible of it. Capricious objectors to its 'cruelty' often resemble the Indian Brahmins, who, while they hire beggars for vermin to feed upon, neglect the vast aggregate of human misery around them. His work may be bound up with '*The Complete Angler*,' and is an eloquent tribute to the simplest and most attainable of rural sports.

\* 'We believe it will be admitted, that the salmon fisheries, as an important portion of the industrial resources of this country, were, previous to the passing of the present fishery laws in 1842, in a comparatively very neglected state, and that they never did, up to that time, nor do they even now, as a whole, yield more than a small proportionate part of that value of which they are capable, under a proper system.'—*Messrs. Mulvany and Barry's Report*, 1846. 'These fisheries are of very considerable and increasing public importance, but admit of improvement to an extent far surpassing their present amount of production.'—*Third Report of the Commissioners*, 1845.

† In all the traditions of the ancient Irish, a plenitude of fish in the *invers*, or estuaries, of the land was believed to be the result of the righteousness of the reigning monarch, and the cursing of a river by one of their primitive saints was considered a great calamity. The warrior, Finn Mac Cool, was killed by a fisherman of the Boyne with his gaff, and his father-in-law, the monarch Cormac Mac Art was choked by the bone of a salmon! The early '*Lives*' of St. Patrick show, that he found the Pagan Irish fishing the rivers in every part of the island. A host of genuine authorities could be gathered to prove that the ancient Irish regarded the fertility of a river as a great blessing. A sufficient investigation of Irish manuscripts, such as the Brehon laws, relating to *Mur Bhreatha*, or sea decisions, would probably show the general right of each Gaelic tribe to fish in the rivers of their clan.—*Communication from John O'Donovan, Esq.*

It is stated in a tract on the O'Sullivan family, preserved in the library of the Royal Irish Academy, that MacFineen Duff, of Ardee, received £300 per annum from the Spaniards for liberty to fish in the river of Kenmare, and that the head of this sept had several deeds signed and sealed by his ancestors in connexion with the said fishery. The value of the northern fisheries to our export trade alone in former times may be imagined from the *soubriquet* of O'Donnell, chief of Tyrconnel (now Donegal), who was called in Spain '*The King of Fish*,' from the quantity imported from his territory by the Spaniards in exchange for wine.

The Irish returned the compliment by styling Spanish wine '*the king of*



of the dwellings of the ancient Britons in the barren hills of Northumberland and other mountainous districts, show that such produce must have formed the chief subsistence where the soil was sterile, as it proved to the American Indians, of whom it is declared by the explorers of the Columbia, the rivers in Oregon, and the sources of the Missouri, that many thousands of those savages lived upon nothing else, even using dried salmon as firing.\*

It should never be forgotten, that highly protected and productive fisheries, sea and inland, would afford to our people a large amount of employment—a means of livelihood and wealth. A single salmon grown to its full size is nearly as valuable as a sheep, while no expense is incurred in its care or food.† The philosopher Franklin remarks, that “he that puts seed into the ground reaps forty fold, but he that puts a line into the water and draws up a fish pulls out a piece of silver.” Another well-known writer observes, that “no species of natural industry is more lucrative than fishing, because it converts the ocean into a mine, and furnishes immense profits without any other expense than what consists in labour.” Arthur Young, whose “Tour in Ireland” contains sagacious advice as to the means of improving her condition, considered the improvement of the fisheries of both description next in national importance to that better cultivation of the land which he advocated so fruitlessly. Food and employment are the especial wants of the Irish people, and these resources may, in a large measure, supply both, without much aid of another want—capital,—for in no other manner can subsistence be obtained by equally economic and rapid means.

The salmon tribe will reward protection by that natural instinct of returning to the stream in which they are bred. The almost incredible multitude of this fish observed by voyagers in the rivers of the Old and New World, proves the abundance in which the bounty of unabused nature will provide this manna of the waters.

Spain's daughter;’ and a drunken debauch was jestingly called—a marriage to that princess.—*Kynes Moryson*.

Sherris-sack was imported largely into Ireland, as appears by Strafford's letters; and the Act of Henry VIII. for levelling dam-weirs provides a punishment for boatmen who used to tap casks of wine in their transit up rivers.

\* In the Columbian river Sir George Simpson found salmon so abundant, that as many as a thousand, some weighing upwards of 40lbs., have been caught in one day with a single basket. ‘In a little stream (in New Archangel, Russian America), within a mile of the fort, salmon are so plentiful, that, when ascending the river, they have been known literally to embarrass the movements of a canoe. About 100,000 are salted annually for the use of the fort.’—*Sir George Simpson's Journey round the World*, 1847. London. Vol. i., p. 227. See also ‘La Perouse's Voyage round the World,’ ‘Lewis and Clarke's Travels up the Missouri,’ and Erman's Travels in Siberia.’

† A salmon ‘kelt’ of five pounds' weight was marked, among others, by the Duke of Athol's men, on the 25th February, 1848, and was taken again in April following, and weighed fully twelve pounds.—*Perth Courier*, 15th April, 1849.

## ILLUSTRATIVE NOTES.

The following table of the areas of catchment basins from which, through their tributaries, the principal rivers of Ireland derive their supply of water, is taken from Sir Robert Kane's "*Industrial Resources of Ireland*," having been mostly supplied to him by W. Mulvany, Esq., Commissioner of Drainage:—

	Total Basin, Square Miles.
Shannon, . . . . .	4,544
Barrow, Suir, and Nore (Waterford), . . . . .	3,400
Erne (Ballyshannon), . . . . .	1,585
Foyle (Derry), . . . . .	1,476
Galway Waters, . . . . .	1,374
Bann, Upper and Lower (Coleraine), and the Main, . . . . .	1,266
Blackwater, co. Waterford, . . . . .	1,219
Boyne and Blackwater, in Meath, . . . . .	1,086
Moy, . . . . .	1,033
Slaney, . . . . .	815
Lee, . . . . .	735
Liffey, Dodder, and Tolka, . . . . .	568
Blackwater (Armagh), . . . . .	526
Main and Inny (Killarney), . . . . .	511
Feale and Gale (Listowel), . . . . .	479
Roughty (Kenmare), . . . . .	475
Bandon, . . . . .	228
Lagan (Belfast), . . . . .	227

'O'DONELL is the second best lord in Ulster, and hathe lords under him as O'Neile hathe; he is the best lord of fishe in Ireland, and he exchangeth fishe allwayes with foreign merchants for wyne, by which his call in other countryes the king of fishe.'—*Carew MS., Lambeth Palace*, 614, p. 181.

'There are many ancient Acts of Parliament in the statute books for the preservation of the salmon, and still more in the Scotch\* statutes; the reason of this particular attention arose from salted fish, and especially salmon, forming great part of the winter's provision, which appears by the accounts of stores for the religious houses, in Dugdale's *Monasticon*.

'Not only private houses relied upon a supply of salted fish, for the winter's consumption, but armies, at this time, could not be marched or subsisted without them; there is, in Rymer, an order of Edward the Second, to provide 3,000 dried salmon for this very purpose. Thus, likewise, Monstrelet, mentioning the defeat of the English, and their convoy being taken, says, "Que grande partie du charoy des dits Anglois estoient chargés de harenc, et à ceste cause la bataille fut appellé la bataille des harens."

VALUE.—A return, showing the number of fisheries in the Unions in Ireland, and their present rating in poor law valuations, was laid before the Select Committee of the House of Commons in 1849.†

\* 'By one of the black acts, it is made penal in Scotland to take any salmon for the space of three years, which must have been very difficult to enforce, as it made one of the great staple commodities of the country for exportation.'—*Barrington on the Statutes*, p. 110.

† *Report of Select Committee on Inland Fisheries*, 1849, p. 223.



The total rated valuation was £12,366. It must be remembered that the public fisheries, which comprise the chief portion of tidal rivers, are not rateable; only fixed engines are rated, many private 'several' interests escaped notice, and are not included; on the other hand, there are a few oyster and eel fisheries mixed up with it.

**WATERFORD.**—That it bears a very small proportion to the real annual amount of these fisheries, may be learnt from the fact that the export from Waterford alone, exclusive of home consumption, has amounted latterly from £15,000 to £17,000 a year.\* The private rights in the Waterford estuary are rated at £882.

**SLANEY.**—The private rights on the Slaney are rated at but £35 a year, while the annual average value of the fishery of that river was estimated, a few years back, at £1,500 a year. More than four thousand pounds worth of salmon were taken in 1842; and Hector, a native of Scotland, the experienced owner of bag nets at the mouth of the estuary, stated in evidence, that, if properly fished and protected, it might be made worth £7,000 per annum.—*Fourth Annual Report of Commissioners of Fisheries*, p. 88.

**MOY, BANN, AND FOYLE.**—The river Moy fishery is rated to the poor law valuation at £1,768 15s. per annum; but is believed by good authority to be worth £4,000 a year.—*Evidence*, 1849, p. 279.

In 1835, the Irish Society received as rent for their great fishery of the Moy, the Bann, and Foyle, £1,250. The annual expense of protecting them amounted to £1,500 or £1,600. Four hundred men were employed as water keepers, and yet many of the tributary streams were unattended to. The lessees complained of the expenses of protection in Ireland,—amounting to a tax nearly equal to the rent—while in Scotland, the charge of protecting the Tay was not more than two and a half per cent. on the rent. The amount of sales of salmon taken in these three rivers amounted, the year previous, to the sum of £17,450. The cost of ice imported by the lessees from Norway, when the country supply failed, was calculated at £1,500 a year. The employment given by them, before the year 1824, amounted to nearly 800 persons.—*Second Report of Commissioners of Enquiry*, 1836, p. 20.

Owing to this careful preservation, the value of the fishery had greatly increased. The annual average produce of the Foyle, for the sixteen years previous to the introduction of stake-nets, had been 17,363 salmon, weighing 43 tons, 8 cwt., 14 lbs. The produce for the last nine years had been 53,603 salmon, weighing 140 tons, 14 cwt., 14½ lbs. Thus, in addition to an increase of about fifty per cent. in the quantity of fish taken by draught nets, nearly as large a take as in former years by these alone, was made by the newly introduced stake-nets. By a steady perseverance in this system, coupled with efficient engines for capture, and stimulated by that care which a *rented private* property receives, the produce of this river alone has been raised from an average of forty-three tons, previous to 1823, to a steady return of nearly two hundred tons, and very nearly, as is believed, to three hundred tons in the year 1842. This would show a power of increase of from five to seven fold.—*Fourth Report of Commissioners of Fisheries*, p. 10, 1846.

The produce in 1842, was 83,106 salmon. The evidence of the

\* *Report of Select Committee on Inland Fisheries, (Ireland,) 1849, p. 451.*



agent to the lessees is, that the first year he got the management of the fishery of the Foyle, the entire yearly produce was only thirty-nine tons. He commenced protecting, and three years after, the yearly return was raised to one hundred tons, and the average produce of seven years is now one hundred and forty and odd tons.—*Evidence, Fourth Report, 1845, p. 109.*

Lord Strafford writes in 1638, that the fishery at Derry produced to the crown that year two hundred and forty tons of salmon, which sold at £15 a ton, 'so as I hope, the charge of getting, salting, and packing the fish deducted, there will be cleared at least £1,400, while it was never let for above £1,000 before, so as his Majesty you see will come by no loss the whilst.' In a subsequent paper he proposes to retain the fisheries of Down and Antrim, as worth £1,000 a year.—*Strafford's Letters, ii., pp. 91, 225.*

It is singular that this Derry fishing—that of the river Foyle—should, by modern protection, have reverted to nearly the same limit of produce which obtained two centuries ago.

At Coleraine, on the 'fishy, fruitful Ban,' as that river is styled by Spenser, in the year 1760, as many as three hundred and twenty tons of salmon were taken.—*Bingley's* (quoting Pennant) *Animal Biography*. London. 1813. Vol. iii., p. 54. In this book a curious account is given of the success of a man named Graham, in 'salmon hunting,' at Whitehaven, on horseback, armed with a spear, as spiritedly described by Sir Walter Scott in *Redgauntlet*.

THE MOY.—A remarkable instance of the results of sufficient protection to the breeding fish occurred in this river. Half of the lease was purchased in 1811 from one of the holders; the partners were 'bad friends,' and would not concur in protection—the remaining holder continuing averse to the expense of water-keepers. The quantity of fish taken that year was only 6 tons, 4 cwt. This state of things continued until 1815, when the lease falling wholly into the hands of the new proprietors, they immediately appointed water-keepers, and in the following year were rewarded by a take of forty-two tons. Since that time, one hundred tons have been killed in one season, and the average has been sixty tons; so that an increase of ten-fold 'arose from the protection afforded to the mother fish.'—*Evidence, 1824, p. 106.*

NEWPORT RIVER.—Sir Richard O'Donnell, after the passing of the act of 1842, being sole proprietor of the small river of Newport, county Mayo, took advantage of its provisions, and employed and paid persons liberally to protect it. In the course of three years, he reaped the reward in having raised the produce from half a ton, or a ton, in a season, to eight tons of salmon and three tons of white trout for the season ending the third year.—*Evidence, Fourth Report, 1846, p. 151.*

LIMERICK GREAT LAX-WEIR.—The lessee of this great fish-capturing power is believed to have realized, in some years, £2,500 a year. The rent paid for its use to the corporation of Limerick, at the beginning of this century, before the introduction of the stake-weirs into the estuary below it, was £1,150 a year. The lease in 1813 was for £800 per annum. It has since fallen considerably in value, for the present lease, dated 1834, is for £300 yearly, with a clause of surrender.

Sir Richard De Burgho stated his opinion in evidence before the Select

Committee, that he thought the probable amount to which the inland fisheries of Ireland would be advantaged by a better legislation for their protection, from the mouth to the source, might, steering clear of any excess, be estimated at two millions sterling a year. After considerable pains bestowed on the subject, Sir Richard calculated that the value of the quantity of fish caught by every engine employed, about two years since, amounted to close upon £300,000.

## CHAPTER II.

### ANCIENT HISTORY AND LEGISLATION.

VERY soon after the invasion of Ireland the fisheries of her principal rivers attracted the notice of the crown, and the cupidity of the great Norman barons. They were conveyed in early charters as the appurtenances of the newly created baronial tenures, in which rights *in aquis, in ripariis, et in piscariis* are coupled with the prerogatives of “*sac et soc, toll et them, in-fangthef et out-fangthef,*” and the judgments of water, of iron, and the duel, of the pit and the gallows.

In the year 1216 King John was obliged to purchase from the bishop of Limerick, by a charge of ten pounds of silver yearly upon the assize of that city, the episcopal claim to the mill seats and fishery there, which he had granted in 1202, to William de Braose, lord of Bramber, in Sussex, together with the whole of the shire; \*—the bishop being said to ‘falsely challenge’ the royal right.

\* ROYAL GRANTS.—The rich salmon fishery of Galway originally passed to the earls of Ulster, under the grant of Henry III., and thence descended to the Mortimers. In 1386, it was demised to Richard Parys, a burgess of Bristol, during the minority of its owner.

Richard II., at the grievous complaint of Walter, baron of Athenry, that certain Irish of Lower Connaught fished in his waters, commanded the sheriff of Connaught and the corporation of Galway to prohibit that any one should purchase salmon taken in those waters.

An old map of the city of Galway shows the site of the original stake-dams, called the *Inchora-more*, or island of the great weir. They were of vandyke form, with three bags.

In the engraving of Cahir castle, given in the ‘*Pacata Hibernia*,’ from a plan of that fortress as old as the sixteenth century, a weir is represented crossing one arm of the river. In the plan of the city of Cork, of the same date, two men are represented drawing a common draft-net, or seine, and the third rowing in the cot.

Henry IV., by patent, in the third year of his reign, granted to John Fitzmaurice, baron of Kerry (ancestor of the Marquis of Lansdowne), the custody of the fishery and profits of the water of Cassan. In 1616, his descendant demised to Anne Lowe, one of the daughters of William Lowe, of Bristol, fishmonger, ‘all the fishings and fishing places of the rivers of Cassan and Feale, in Clanmaurice, from the sea to Listowel, all in the river Geale, to the weir of Dromurrin, and all in the Brough, and also all weirs, royalties, liberties, and profits to the said fishings and fishing places belonging, with liberty to build weirs on any part of the premises.’



But the invaders in endeavouring, during their subjugation of this country, to plant the exclusive privileges of their order in its complete feudal polity, found powerful obstacles in the half-conquered Celtic race, (whose genius was opposed to such institutions, and who remained hostile to the strangers until moulded to Irish manners and usages,)—from the dominancy of the hierarchy, drawn mostly from the native ranks, and—in the noble stand made by their own class to curb the encroachments of the crown or of individuals.

The English lords—by the great charter confirmed on an island in the principal river of their kingdom—interposed to prevent undue powers of monopoly. The prerogative of the Crown was taken away, to appropriate for the future the uses of rivers; it was also ordained, “henceforth let all weirs be entirely removed from the Thames and Medway, and through all England, except along the coasts of the sea;”—while the Forest charter prohibited the emparking of districts for hunting, and restricted the arbitrary and exclusive right to the pursuit of game arrogated by the Norman race.\*

The extension of these liberties was shortly after conceded to English subjects in Ireland, and confirmed in many subsequent Acts of her Parliament.

The sovereigns of Scotland—monarchs of a poorer soil, but of more united people than those of Ireland—successfully claimed the great river fisheries of that country as *inter regalia*, and the grant of a barony ‘cum piscationibus,’ conferred those many private titles which are there maintained to the present day. The power of government in Ireland, always feeble, waned until the reign of Henry VIII., and the rich property of its fisheries was not generally asserted as appertaining to royalty, until the king of Scotland, after ascending the English throne, extended his national view † of this regal franchise.‡

\* The early charters of Seigniories granted in Ireland appear to convey a right of property in every particular in which it could well be exercised, and especially in the article of game, and of the *fera natura*, a jealous claim to which was a characteristic of the ‘haughty Norman.’ So exclusively were powers, partly public, exercised by the feudal barons in Ireland, that we find De Courcy, earl of Ulster, granting to the prior of Down, liberty of *passage* over the water of Strangford, and other principal rivers, and the tithe of all the earl’s huntings through his whole territory, in all places where his hunters meet.

The genius of the Celtic tribes has always been to make certain descriptions of property, as pasturage, and many animals, commonable, and even arable land to be held in ‘rundale.’

† Sir John Davies, the unscrupulous attorney-general for Ireland of James I. (a monarch who was much the cause of bringing civil war on his country, and his son to the block, by his doctrines of absolutism), in a course of special pleading to prove that the fishery of the Bann was an ancient inheritance of the crown, argues, that as tidal waters are ‘*les hautes streams le roy*,’ the right of piscary in them is a royal prerogative. The evident meaning of the phrase is, that they are simply the ‘king’s highway.’

‡ The exclusive right of fishing in a public river is a royal franchise, and is

Still, either the force of the Crown, or concession to its representing the majesty of the nation, sometimes endowed it with the greater rivers—as sturgeons and whales are entitled “royal fish,” and were anciently claimed as *prerogatives le roy*.\*

Circumscribed to often less than one-half of the island, (the remote territories remaining either under the rule of the Irish chiefs, or of Anglo-Norman lords, who as little acknowledged the laws, and failed to temper their sway with the native patriarchal code,) the authority of the State was yet frequently and beneficially directed to the circumstances of our rivers. The valuable fishery of Limerick was constantly under notice. The weirs erected there, probably by the Ostmen or Danish settlers, (whose ‘cantred’ or district king John reserved in his charter to De Braose,) are styled in records ‘the king’s lext weyres;’ and the passage—or ‘king’s share’ in them—is still known as the ‘Mona-rea,’ or gap of the king. The profits of their use were paid into the exchequer, or often temporarily applied to local uses. The piscary freedom of the Liffey, the metropolitan river passing under Dublin castle, as near the centre of government frequently received its intervention to remedy intrusion. In 1218 the lord lieutenant was directed to cause an inspection of the water-course, for the removal of all impediments to the entrance of merchandize, and passage to and fro of fish; a command repeated in 1220, in reference to a water-head constructed by the prior of Kilmainham for the use of his mills. Edward I. appointed Richard de Beresford and others to survey the weirs in the Liffey, between Dublin and the town ‘*de Saltu Salmonis*,’ (Leixlip), and to inquire by a jury by whom the weirs there were used, and whether otherwise than was warranted by ancient usage, and to abate all nuisances. *Pourprestures*, or encroachments on the water of the Boyne, came frequently under the

considered as such in all countries where the feudal polity has prevailed; though the making grants, and by that means appropriating what seems unnatural to restrain, the use of running water, was prohibited for the future by King John’s charter.—*Blackstone*, on “*The Rights of Things*,” book ii., chap. 3.

Its provisions did not extend to Scotland, and hence the unlimited power in that kingdom in this respect. But fixed engines for fishing were forbidden by an act of Robert the Bruce.

\* Charters conferring exclusive privileges of fishery became frequent in Ireland in the reigns of Elizabeth and James. The patents of monopolies made by those monarchs created general discontent, and, under Charles I., tended partially to the overthrow of the monarchy. They were much increased in Ireland by Strafford during his government, and were included in the grievances laid before Charles by the Irish Parliament in 1640, not being disputed or annulled with the same vigour as in England. During the same period, iniquitous violations of prescriptive titles of centuries old to land frequently occurred.

† *Lex* or *lax* is Danish for salmon. Hence Leix-lip, or the Salmon-leap; in Latin, *saltus salmonis*, from whence the barony of Salt, county Kildare, derives its name. The Danes possessed the maritime parts of Ireland before their expulsion or amalgamation with a cognate race, the Northmen, and carried on that commercial enterprise for which the Celtic tribes have never been remarkable.



cognizance of the Crown; and not to multiply instances in this cursory sketch of history, it is sufficient to say, that the authority of government was occasionally exerted, not only to preserve those private rights which royal grants had created, but to redress injury to public freedom of navigation or piscary.

Yet although the first act of the early parliaments in Dublin went 'to confirm the liberties of the church and of the great charter,' the vindication of these latter was but insufficiently regarded. Prescriptive rights to numerous 'several' fisheries grew up, and were established by subsequent patents, although contrary to the provisions of the law. The *surveillance* of government was not so rigid as to repress silent and remote encroachments, nor the power of the community exerted to defend their claims against a system of feudalism and chieftainry combined. Incessant war between the two races, aggravated by the unhappy policy of refusing the laws and privileges of the English pale to the nation at large, further prevented the complete observance of the laws and free constitution of England:—'*silent leges inter arma.*'

A remarkable feature in the history of the river fisheries of Ireland is the amount of property obtained in them by the clergy and by monastic foundations. Their claim, whether founded on that of the church of St. Peter, or for the sake of enhancing their power in capturing an article of food, the use of which is enjoined by their creed, seems to have been universally recognised, whether on the part of the Crown,\* the nobles, or the people; and to have occasioned the frequent establishment of those means forbidden by the laws, solid weirs or dams constructed across the entire beds of rivers, on the

\* In the year 1537, when the advent of the Reformation brought inquiry into the possessions of the monastic establishments of Ireland, the encroachment of priors and abbots on the 'king's rivers' was one of the accusations brought against them. Four high commissioners were sent over to reform abuses, and inquire into grievances. A jury of the city of Kilkenny presented that—

'Item—The prior of Inystoyke, the abbot of Jerypont, and divers others dwelling nere unto the ryver, doo make and set such weares from banke to banke in the same ryver, from Inystoyke unto the mountayne of Bleme, that no ferye ne bote may have their course.'—*Additional Manuscripts, British Museum.*

Accordingly, the Act of 28 Henry VIII. was passed, reciting that 'where at all times necessarie boates, scowtes, wherries, cotties, and other vessels, laden with goods and merchandizes, have been used to passe and repasse in the king's rivers of the Barrow, the Noyre, the Suyr, and the Rie . . . . and yet, now of late, divers wilful persons, having no respect to the premisses, but more rather to their own wilfulnesse, singular commodotie, and benefite, have, in divers places made such weres, purpressures, ingines, streites, and other like obstacles, that by no meanes any boates, &c., can conveniently passe; and through which the salmon frie be cleerly destroyed, contrary to the effect and purport of the statutes therein provided;' and it was enacted that any person in company with the sheriff, or seneschal of the neighbouring shires, might prostrate, and break down such obstructions. A convenient gap for passage was also to be made in every mill-dam.



banks of which the seats of the church were more numerous than in any other country in Christendom.

While many rights assumed by the Crown and by the Anglo-Irish lords became inoperative during the protracted struggle against the invaders, the encroachments of the monasteries continued, unredressed even by subsequent acts of the Legislature specially directed against them.\* Transferred by patents, together with the temporalities of the dissolved abbacies, to a new influx of feudatories, the weirs of Lismore, of the "Gill-abbey" of Cork, of Limerick, and Mellifont, and numerous smaller ones, owe their origin to the ancient power of the church.

#### THE OLD CODE OF LAWS.

From the reign of Henry VIII., active legislation for the requirements of Ireland may be dated, and from that time to the commencement of the present reign no less than twenty-five different enactments were passed for the improvement and regulation of the Irish inland fisheries.†

The first is local—providing summary means for the removal of obstructions to the free navigation and piscary of the four

\* The rights of the Church to property in the fisheries of Ireland are too numerous to be more than slightly noticed. They evince the pious disposition of the founders to provide a subsistence necessary for its members. In 1178, St. Lawrence O'Toole, archbishop of Dublin, granted to the church of the Holy Trinity the fishery of the Liffey—at its site—with the tithes of salmon and all other fish taken in the watercourse.

Prince John granted to St. Mary's abbey, Dublin, liberty to have a boat in the water of the Avon-Liffey, to fish with equal privileges as his own boat. The prior of Christ's Church, and the primate, were seised of a similar privilege—the former obtaining, in addition, the tithe fish of the river.—*Dalton's Dublin*, p. 668.

Richard II. committed to the prior of St. Thomas, of Athy, the custody of two 'haches' (cruives) belonging to that convent in the river Barrow. The friary of Enniscorthy had the exclusive right of fishing with cots on a large portion of the Slaney, and the priory of St. Sepulchre, Wexford, had half the tithes of fish in all cots which landed within the parish of Selsker within that town.—*Inquisitiones Lageniæ*.

It is stated that the Duke of Devonshire had to pay the bishop of Waterford the fourth fish taken in the weir of Lismore, and to the cathedral the tithe or tenth fish, which latter was compounded for under the act at £100 a year.—*Evidence, Report*, 1836.

The Irish clergy appear to have claimed tithe of fish in the time of Strafford.

The principal weir used by the monks of Dunbrody abbey was called 'God's weare,' an *inversion* of the immunity significantly known as the 'queen's share,' in solid weirs.

† Whether the fisheries of Ireland received a great discouragement by the following royal 'dispensation' from King Edward VI., cannot now be known—'And where, by the lower and common orders of our realm, certain dayes and tymes be appointed onely to eat ffyshe, our pleasure is, that you our deputie may graunte to such and as many as you thinke goode, full libertie to eate fleshe at all tymes forbidden, any statute, law, or custom to the contrary notwithstanding.

'To Sir Anthony St. Leger, Knt., L.D., of our realme of Ireland, and to the rest of our counsaill there.'—[*Hardiman's West Connaught*.]

rivers flowing into the Waterford estuary. That of Charles I. was framed in a more than usual spirit of intention to prohibit any monopolizing method of capture of the salmon, and to insure its preservation. This fish appears at that time to have been considered as legitimately appertaining to the inland districts:—the setting of stationary nets in rivers, and the taking of salmon by any such devices is made illegal. The Acts of George the Third's reign further provide for the enforcement of this principle, and contain other rules 'for the protection and improvement of the inland fisheries of this kingdom.'

This old code of laws, repealed by the act of 1842, has often the character of class and local legislation, instanced by the qualification necessary to kill salmon, the mistaken and over stringent provisions to repress the destruction of the fish and fry, and the various acts passed to suit the wishes of proprietors of separate rivers. For example, the Act of Elizabeth forfeits "any swine, hogge, or pygge," feeding on the strands of *tide-ways*, where these animals were supposed to devour "great quantitie of salmon and eel frye, and frye of spaune of divers other good fishes." Those of George I. imposed for *making, having, or keeping* any lyster or spear, whether used or not, a penalty, or hard labour for one month, and public whipping. But the strangest clause was that enacting that no person, except possessors of £40 per annum freehold, or £1,000 of personal estate, or entitled to any fishery, or those employed by them, "shall make, have, or keep any gaff, spear, loop, net, or *any other* engine or instrument commonly made use of to take or kill salmon" (no proof of *using* them being required), on pain of forfeiture, a fine of 40s., or imprisonment not exceeding thirty-one days. The effect of this qualification clause might have been to deprive poorer persons of the power of taking salmon in all fisheries, and to abrogate the common rights of piscary.

The Act of 5 George II. amended that of Henry VIII. for removing weirs by providing a penalty on persons repairing or re-erecting them after they were broken down, of £50 for the first, and £100 for the second offence. Fishermen and their apprentices were not to be prevented from using lawful nets and engines in navigable waters.

Many excellent provisions may be found in these laws for the repression of illicit practices, of poaching, of the destruction in mill works, and for the advantage of the peculiar circumstances of the Irish fisheries, and were partly adopted in the statute of 1842; but much was so insufficient and ambiguous as to create a general call for their being remodelled by the imperial legislature,



## NOTES.

BOYNE.—33 Edward III. April 3. Writ of *monstrans de droit* from the king to his escheator, reciting that on a writ of *certiorari* as to the cause of escheating three weirs "*gurgites*" at Rossery, Cnowyth, and Stackallan, on the water of the Boyne, belonging to the abbots of Mellifont, the said escheator returned that the said abbots, without license from the crown, had made a pourpresture or encroachment on the said water, which was the king's stream, by constructing weirs so high that neither vessels, timber, nor fish, could pass as they were before accustomed; and on the part of the said abbot it being alleged that the aforesaid water was his, and not belonging to the crown, and praying that this be inquired into, the escheator is directly to inquire diligently thereinto, "*et tunc manum amoveat*," if the water prove to belong to the abbot.

Similar writs were issued respecting the claims of the abbot of Duleek, and of Sir John Netterville, to have other weirs.

The result of the inquiry was contrary to the right of the crown, for on the 25th May, a writ of "*ouster le maine*," to restore possession of the three weirs at Mellifont, and in July for those "the Nynche," and of Duleek, "because it was accounted that the water where the said weir was constructed *was not the king's*."—*Cal. Rot. Pat.* pp. 79, 80.

RIVER WEIRS.—'These weirs both obstructing the navigation of rivers, and being the means of destroying the fish, are frequently prohibited both by the ancient English and Scottish statutes. The navigation of rivers hath been more early attended to in all countries, than the other method of conveying commodities by land-carriage; and as most of the countries of Europe were at that time of the Roman Catholic persuasion, the preservation of fish was necessarily a greater object than it is at present. It appears by the old chronicles, that there were weirs anciently below London-bridge, as well as above it; these were not destroyed till 7 Henry IV., when all the weirs, from Staines to the Medway were removed. The archbishop of Canterbury gave great opposition to this, who probably owned some of these weirs, and, from his influence, had prevented this chapter of Magna Charta from being put in execution till that time.'—*Barrington on the Statutes*, 1765, p. 14.

LAW OF FISHERY IN IRELAND—RIVERS.—*Magna Charta*, cap. xvi.—Nullæ ripariæ defendantur de cætero, nisi illæ quæ fuerunt in defenso tempore Henrici Regis avi nostri, et per eadem loca, et eosdem terminos, sicut esse consueverunt tempore suo. That is, that no owner of the banks of rivers shall so appropriate, or keep the rivers 'several' to him—to defend or bar others, either to have passage—or fish there—otherwise than they were used in the reign of King Henry II. 'This statute, saith the Mirror, (cap. 5. s. 2.) is out of use—Car plusors rivers sont ore appropriés et engarnies, et mise en defence, que soilunt estre commons a pisher et user en temps le roy Henry II.'—*Coke's Instit.*, part ii., folio, London, 1681, p. 30.

To put a river 'in defence' was to 'defender' or forbid its use by another. Hence the 'de-fence months' of the forest laws.

Lord Chief Justice Hale, in a treatise on 'the king's interest in the

sea and its arms, and of the right of fishing there,' [*Hargrave's Tracts*, 4to, London, 1787,] states that the public may not be restrained from their right of common of piscary, 'unless in such places, creeks, or navigable rivers where either the king or some particular subject hath gained a propriety exclusive of that common liberty.' He affirms the power of the crown to grant fishing within a *creek of the sea*. The question appears to lie, as to the royal power to grant a 'several' fishery of a *river*, to place a river *in defence*, notwithstanding the provisions of Magna Charta. On this head it stated that 'all pretence of prerogative against Magna Charta is taken away by the statute of Marlebridge'; and, that all the statutes made contrary to that charter, which is *Lex terræ*, from the making thereof until 42 Edward III. are declared and enacted to be void: therefore any act concerning the extra-judicial commandment of the king contrary to that charter is void.—[*Institutes*, pp. 36, 187.] *Dormiunt aliquando leges—nunquam moriuntur*.

On the subject of "Title by Prescription," the following passage is taken from Domat and Strahan, on the Civil Law of England, London, folio, 1737:—

"We cannot acquire by prescription the things which nature, or the law of nations destined to a common and public use, such as the banks of a river necessary for navigation, the walls and ditches of towns, and other like places."—Vol. i., p. 470.

The Master of the Rolls, in his judgment on the trial of the title to the Lax weir at Limerick, 1841, states as follows:—"There might be a prescriptive right in the crown to a several fishery in a navigable river, which might be passed by a recent grant; but I would require further evidence than exists in the documents before me to satisfy me that such is the law, or that any such presumptive right has ever existed in the crown, to a several fishery in a public navigable river, to the exclusion of the public at large."—*Report of 1849, Evidence*, p. 74.

Flumina et portus publici sunt, ideoque jus piscandi omnibus commune est in portu fluminibusque. "Though this rule, which is a rule of the civil law, be thus, and so found in Bracton, yet by the common law of England, a man may have a proper and several interest as well in the water or river as the piscary, and therefore the water may be granted."—11 *R. 2. Plow. Com.* 154 a. "If one grant another *aquam suam* the piscary in it passeth, because it is included in the word *aqua*."—*The Grounds and Rudiments of Law and Equity*, folio, London, p. 122. Lord Hale writes, that "a subject may by prescription have the interest of fishing in an arm of the sea, . . . not only free fishing, but severall fishing, . . . such as *gurgites*, weares, fishing places, &c. And such as these a subject may have in grosse, as many religious houses had; or as both corporations and others have had: and this not only in navigable rivers and arms of the sea, but in creeks, and ports, and havens."—*Omnes consensus tollit errorem*.

WEIRS.—*Magna Charta*, cap. xxiii.—*Omnes kidelli deponantur de cætero penitus per Thamesiam et Medeweium per totam Angliam nisi per costeram maris*.

"Kidels is a proper word for open weirs whereby fish are caught.

"It was specially given in charge by the Justices in Eir, that all juries should inquire, de hiis qui piscantur cum kidellis et sharkellis."



“And it appeareth by Glanvill, that this pourpresture *was forbidden by the common law*, for he saith, *Dicitur autem purprestura, vel pourprestura proprie, quando aliquid super Dominum Regem injuste occupatur, ut in dominicis Regis, vel in viis publicis obstructis, vel in aquis publicis transversis à recto cursu, vel quando aliquis in civitate super Regiam plateam aliquid ædificando occupaverit, et generaliter, quoties aliquid sit ad nocumentum Regii tenementi, vel Regiæviæ, vel civitatis*, and every publick river or stream is *alta Regia via*, the king's highway.

“Pourpresture cometh of the French word *pourprise*, which signifieth a close, or inclosure, that is, where one encroacheth, or makes that several to himself, which ought to be common to many.”—*Coke's Institutes*, 1681, p. 38.

INVENTION OF SCOTCH TIDE NETS.—“Monopolies are contrary to the liberty and freedom granted by *Magna Charta*, and divers other acts of Parliament.”—2 *Just.* 69. The right of monopoly, strictly so, is only conceded by the law of England in the case of useful inventions, when patents for fourteen years are accorded. There appears to be no necessity for the principle to be called in—to insure to the public such care of a great river as to result in a plentiful supply of fish: on the contrary, the creation of a monopoly at the mouth of a river tends to diminish protection in the distant parts.

“*Politix legibus non leges politiis adaptandæ.* It is not in any man's power to create new natures in law according to new inventions, except they may stand with *jus commune*, which is *natura universa*.”—*The Grounds and Rudiments of Law and Equity*. London, folio, p. 270.

NOTES ON THE LAW OF FISHERY IN IRELAND.—King John's charter was extended to this country by his successor, and the prohibition of grants of “several fishery” in public rivers was extended to those also that were fenced under Richard I., so that a franchise of “free fishery” ought now to be at least as old as Henry II. Such is the law laid down by lord Hale, and quoted in the “Summary of Laws” in the second Report of the Commissioners of Inquiry into the Fisheries of Ireland in 1836.

*Magna Charta* is but a confirmation of those laws and liberties which had been enjoyed in England before the reign of Henry II. To such his subjects in Ireland were also entitled by inheritance from their ancestors who originally settled there. Therefore soon after the original grant had been made to the English people, King Henry III. acquainted his Irish subjects that he had conferred on them those liberties.

It appears that in preparing the “*Magna Charta Hiberniæ*,” variances then existing in the customary laws or situation of the two countries were recognised and followed. The “ancient customary usages and laws” of Ireland, were also recognised in subsequent statutes, and formed the foundation of the common law of the land.—*Lynch's Feudal Dignities and Legal Institutions of Ireland*. London, 1830.

Accordingly it will be found that the provision of dowry, and even the descent of baronial titles, followed the customs of the country, as affected by those of the native race.

The statute 13 Edw. II., c. 1., in the Red Book of the Exchequer, confirms the liberties of the great charter, “which last shall be published



and observed in all points." The same statute directs that the English ones of Westminster, Merton, Marlbridge, and Gloucester shall be observed in Ireland, saving always the good customs and usages of the land.

The statute 23 Edw. III., c. 1 & 2, confirms the liberties of the Irish church, and of the great charter.—*Eighteenth Report Irish Record Commission.*

An unprinted Act of 25 Henry VIII. repeals all grants made of the fishery of the river Bann, since the first year of his reign. Another of 28 Henry VIII., c. 37, exists 'for making sufficient gaps for boats in all weirs on the Boyne and other waters in Meath and Uriel; and giving all persons liberty in company with a sheriff, and obliging sheriffs, mayors and portreeves, with the *posse comitatus*, to make such gaps.'—*Statute Rolls in Chancery, quoted in above.*

The Act of 23 & 24 Geo. III., c. 40, contains this section—'And whereas it is necessary that a king's share or space of twenty-one feet should be left open in every river for the free passage of fish, in order to increase the species; and whereas, there are instances of persons who form a complete chain of obstructions across great rivers, thereby stopping the progress of salmon and all other fish to the fisheries which lie above them: be it enacted, that no person shall form any such (except in chartered or patented rivers), but shall leave a free passage, or king's share, of at least twenty-one feet clear in the deepest part.' Any person injured by the erection or continuance of weirs which have been, or may be, erected contrary to law for the purpose of catching fish, was to serve notice for abatement. No suit for recovery of the penalty provided, by civil bill, was to be entertained whereon a title for the erection appeared. Penalty, £20 on conviction, and 20s. *per diem* for its continuance after notice.

By the 14th section, 'nothing herein contained shall be construed to repeal any law now in force against the erection of any such weir, or for prostrating the same.'

26 Geo. III., c. 50, s. 8, repeals the penalty of 20s. *per diem* for continuing a weir after notice; and enacts that any person unlawfully erecting or keeping up any weir upon any river, after notice given, shall forfeit £50 with costs of suit. By s. 8, if continued for seven days after judgment, any person may prostrate it.

S. 10 provides that this shall not extend to the prostrating of any weir of which the proprietor has had uninterrupted possession for the space of thirty-one years, or who holds the same by a patent or charter grant, saving to all persons all rights and remedies for asserting thereof, and not giving any right to erect or maintain any weir, but such as the laws now in being give.

PRIVATE Rights appear by early records to have obtained to but small extent in the tidal parts of rivers in comparison with the number of rivers and the multiplicity of proprietors. Archdeacon, or Mac Odo, of Bawnemore, in the county of Kilkenny, lord of the manor of that name, owned three weirs below the borough of Thomastown, and the right of half the fish caught opposite his land. Baron Shortall had another weir on the Nore. Denn, of Grenane, owned 'five fishing weares,' near Thomastown. The Baron of Brownsford, (the beautiful seat now called Woodstock,) had two 'salmon weares' near his castle. The priory of

Innistigue possessed the several fishery of the Nore, co-terminous with its lands, but the commonalty of the town were accustomed to fish in it.—*Inquisitiones Lageniæ*.

The Nore appears to have been more appropriated by private persons than any other large stream in Ireland.

RIVER SLANEY.—The old titles of the landowners along the tidal portion of this river to the fishery are worth notice, as a matter of curiosity: these rights have ceased by disuse. Traces of stake-weirs are to be seen in a few places at low-water. Roche, of Artramont, owned one of these weirs. A prize fish was payable every Wednesday to the lord of the manor of Carrigmenan. At some drafts it was customary to take up to the landlord the best fish taken each tide, or a salmon could be claimed and taken out of each boat as 'duty fish.'

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## CHAPTER III.

### THE COMMISSION OF INQUIRY—POLICY OF LEGISLATION AND ADMINISTRATION.

THE Fisheries of Ireland, both Sea and Inland, having been brought prominently before the notice of Parliament in the year 1835, as requiring remedy for various evils and for their unsatisfactory condition, and as offering by their improvement favourable means for relieving the wants of the country,—in the recess of that year a Commission was directed to the officers of the Board of Public Works,\* for the institution of an inquiry into their state, the laws affecting, and the means and expediency of extending and improving them.

The "Suggestions" or instructions as to the course of the investigation, and which it is expressly stated were to serve as a guide for the inquiry, and as a basis for the report, were forwarded to the Commissioners by Lord Morpeth. These suggestions are drawn up in a comprehensive and statesmanlike manner. The investigators were to examine into the actual state of the subject, to collect all the information that experience and the history of past times could afford, and to report the result. The following passages and extracts will show the general principles held out to the Committee of Inquiry as those that were to direct the policy of future legislation for, and the administration of, our Sea and River fisheries.

With respect to the first named—"the object being to catch as great a quantity of fish as can be taken, without the risk of producing scarcity in succeeding years," searching investigation was to be made as to experience of the regulations adopted at

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\* The following gentlemen were associated with the board for the purposes of the inquiry:—Charles A. Walker, Esq., M.P. for Wexford, who acted as chairman; Sir Charles Morgan, M.D.; J. R. Barry, John Jagoe, Henry Townsend, William Stanley, and Henry R. Paine, esquires.



the different fishery stations; as to what measures had been found beneficial, or proved otherwise; how far the Restrictions,—laid upon the different modes of fishing, the limits to the seasons, to localities, and to the kind of nets employed,—were founded on good principles; and whether some of these regulations had not originated in old and erroneous conceptions, or “in the false principle of encouraging the more imperfect methods adopted by the poorer class who have not capital or means for the adoption of improved systems.”

It is then remarked—“the poor fishermen on the coast naturally support the latter principle, on the plea of the cruelty of not enforcing restrictions on operations, depriving them, as they believe, of their only means of subsistence, and thus reducing themselves and families to a state of beggary; but whatever *other expedients may be adopted* for their benefit, the principle of individual relief, at the expense of general improvement, cannot be admitted.”

A distinct view was to be taken of the operations and regulations for the deep sea, the inland, and the shore Fisheries, as also those at the mouths of rivers—“all of great importance, hitherto much neglected, and requiring different treatment.”

The document proceeds—“The propriety of the use of the Scotch stake-net, against which there is a strong prejudice in Ireland, is deserving of consideration. They are undoubtedly most productive, but it is asserted that they exhaust the supply of fish to an extent that may threaten a material diminution in the stock for many years.

“In the rivers, the construction of eel and salmon Weirs will form an interesting subject of inquiry; and whether they also, in their present form, and being practically of unlimited operation in season and situation, may not be found too destructive.”

Clear statements on these researches were to form a guide for future exertions, and on them were to be founded the provisions of an entirely new Act, of which the regulations should be under the cognizance of the civil magistrates and authorities of the country, with as little direct interference as possible from Government, “an interference which has hitherto been too much mixed up with every undertaking in Ireland.”

These were the views held out to the Commissioners, the policy and effects of which it is now proposed to consider, adducing such arguments and evidence as may lead to an estimation of their tendency, both as intended and understood, and to a deprecation of their continuance on those points where they appear to be impolitic or misapplied.

The nobleman who transmitted these suggestions to the commission would be foremost in the cause of relieving the Irish community from any future ill results that it can be clearly proved will proceed from them.



On reference to the document it will be seen that it was determined to discourage ideas of reviving aid to the Sea fisheries from the public purse, through former objectionable means or by extensive government establishments.

It was evidently and wisely contemplated to give, under certain reservations, facilities for the introduction of improved methods of fishing in the sea; *but*, with regard to their application to rivers, to question the propriety of stake-nets and weirs, on account of their injurious tendency.

With respect to the administration of the laws, the advantageous consolidation of them into one statute, rendered perspicuous and accessible, and the giving their execution into the hands of the local authorities and tribunals of the country, were among the most serviceable designs.

However, the absence of question as to the *justice* of the introduction of stake-nets, especially where a 'common of piscary' prevails, or, of allusion to the need of a governing control, leads to a conjecture, that the peculiar difference between the river fisheries of Ireland and those of Scotland, the existence of public rights to a far greater extent in the former, had not been borne in mind. Perhaps it was believed that the Scottish system of management by the river *proprietors* was applicable to this country. From that supposition it may have proceeded that the principle of 'self-government' had so much stress laid upon it.\* This doctrine, advantageous as it is for the well-being and progress of society, may be carried to an extreme, particularly where mixed rights, both commonable and private, exist in an indefinite and vulnerable description of property, and therefore where the mediation and impartial arbitration of intelligent government officers, or the strong arm of power may be frequently required.

The Commissioners concluded their inquiries† at the end of a year, having principally directed them to the Sea fisheries. They reported:—that the Salmon fisheries were by no means in a satisfactory condition, as well from insufficiency of existing laws as from the systematic breach of their provisions:—"that the diminution of fish throughout the *south* of Ireland" (where public rights exist to the fullest degree) "was referable to causes within the reach of legislative control":—that a frequent non-observance of the close season, and a universal prevalence of poaching (in some cases amounting to a total annihilation of the fisheries), especially required immediate legis-

\* The acknowledgment of its partial failure is to be found in the "Suggestions" themselves, where allusion is made to the association of the Claddagh (Galway) fishermen, having a self-appointed chief, and yet whose violence sometimes required to be checked by government armed vessels.

† The Report on the Salmon Fisheries is dated 4th November, 1836, and signed by Charles Arthur Walker, esq., M.P., chairman; by Sir John Burgoyne and Sir Charles Morgan; and by B. T. Ottley, J. Radcliff, J. R. Barry, Henry Townsend, H. R. Paine, and William Stanley, esquires.

lative redress ; and was, though in part attributable to the circumstances and habits of the peasantry, principally encouraged by the absence of an efficient police.

That it was also "referable to the peculiar nature of the property, and the conflict of interests which that occasions."

That the most productive fisheries are situated nearest to the mouths of the rivers, whereas the *legal protection* of the breeding fish was *principally requisite* in the upper and shallow waters ; and that such a natural conflict of interests was much increased by malpractices pursued along the course of the stream, for unduly intercepting the fish in their passage upwards. "These were," it is stated, "in some cases so successful as to deprive the upper proprietors of all pecuniary interest in the fisheries, and to render them absolutely indifferent to poaching, and unwilling to co-operate, either in purse or in person, towards its abatement."

The next paragraph of the report discloses the superior value of a river fishery where Public rights do not obtain—or rather, that where the possession of the property is private, individual interest is found powerful to care for and insure productiveness. The conclusion may be drawn, that the surest system for promoting the improvement of river fisheries generally, will be found in sedulously guarding such Private rights as exist in them, and in providing that they be held as safe from encroachment as those of the public.

"Wherever the lower fisheries are of sufficient value to pay the expense of protection, and the shallow spawning places are under the effectual control of the beneficiaries, the breed seems to be adequately protected ; and few complaints are then made of a deficiency of fish, arising from the use of especial engines employed in lawful fishing : whence it may be inferred, that disputes on that point relate rather to the *distribution* of the property, than to its absolute quantity. Neither, in such fisheries, is the exact period of close times a matter of major concern : those interested in them naturally abstain from what is injurious to themselves ; whereas, the indiscriminate take of salmon—at all seasons—is desirable only to the poacher, or to the upper proprietor who has no *marketable share* in the proceeds of the river. It is chiefly, therefore, where a rivalry subsists between different classes of proprietors, that the proper times of fishing, and the use of stake-nets and other well-contrived engines for capturing the fish, become matters of dispute or litigation.

"The extent to which this conflict of interest operates, is cognizable in the contradictory nature of the evidence offered in the various reports, as well respecting the natural history of the fish, as the tendency of the several practical points in de-



bate. On scarcely any one particular is the testimony concurrent and unanimous; insomuch, that *fixed bases* for legislation can only, *if at all*, be attained, by a lengthy and philosophical course of independent investigations."

After this exposition of the varied *interests* of *proprietors* involved in the property of a river fishery, but which fails to notice that in many rivers *public* rights *also* clash with them,—and this expression of opinion as to the only mode of arriving at fair conclusions, the Commissioners state that they had not found leisure for such an examination, the subject of which, both in its relations to private property, and to the interest of the public in a *maximum* supply of fish, they considered too important to be hastily and carelessly provided for. Yet, after this acknowledgment of difficulties—perhaps insuperable—of such consequence as to affect rights of property, and to hinder that improvement, the elucidation of the best means for which was the principal design of their appointment, they wind up their report by observing, that they would feel themselves compelled to ask a long extension of time for making it, "if it were necessary to go into a separate investigation on behalf of Ireland;" but they "are satisfied that no such necessity exists, and that whatever laws are requisite for the British salmon fisheries, will be found generally sufficient for those of Ireland." They then, after proceeding to say they cannot hope to arrive at conclusions more satisfactory to all the parties interested than those obtained by former parliamentary committees, close their labours, "with a view to economy, and the early relief of the Irish proprietors," by referring to the evidence recently collected, and to the several reports on the British salmon fisheries: and they suggest that those of Ireland, "be embraced in any act which will arise out of these researches of the parliamentary committees,\* with such additions as may be found necessary in placing the fisheries of the two countries on the same legal footing."†

\* *Reports of Committees*, 1824. The report of the select committee appointed to take into consideration the state of the salmon fisheries of Scotland, and of the United Kingdom, and the laws affecting the same, was laid before the House on the 17th June, 1824. The object of the members of this committee appears to have been to elicit information and opinions on this subject, then comparatively uninquied into, and on which statements were very conflicting. They acknowledge the caution and consideration due to it, and deferred the pronouncement of opinion until the information they had published "might have served to attract attention, and lead individuals of intelligence to examine, and, subsequently, subject it to the test of dispassionate consideration and further inquiry;" and recommended that further inquiry and evidence should be made and taken the ensuing session. This was done the following year. The report is dated March, 1825.

† This Inquiry and Report into the Irish river fisheries (dated 4th November, 1836), was probably left incomplete from the circumstance, that 23rd March, 1836, a select committee had been appointed 'to consider the state of the sal-



The assumption that similar laws and consequent arrangements would be suitable to both kingdoms, must have been founded on the belief that the circumstances were similar. From the allusion to 'Irish *proprietors*' it may be inferred that the existence of common of piscary, a distinctive element in the constitution of the Irish river fisheries, had been somewhat overlooked.

mon fisheries in Scotland, in as far as relates to the altering the close times in different districts in that part of the United Kingdom; the laws for the observance of the Saturday's slap; or opening in all cruives, engines, machines, or devices; the regulation of cruives, of mill-leads or courses, and the removal of dams and obstructions in all rivers, streams, or waters.' Their report is dated 30th June, 1836. As their recommendations were expected to guide the adoption of measures for the benefit of the Irish salmon fisheries, they may be compared with those actually enacted for or practically carried out in Ireland.

#### THE SCOTTISH COMMITTEE REPORTED.

'The only object of the close season being to afford protection to the fish when they are breeding, and during their state of exhaustion consequent upon it, the legal close time ought to coincide as nearly as possible with the period so defined by nature.' Rivers vary considerably. It would be advantageous to the general interests of the Scottish fisheries to have the fence months regulated according to the various circumstances, instead of having one uniform season:—and *especially in Ireland*, different rivers have different seasons.

'That the Saturday's slap, or weekly close time, ought to be strictly observed in the management of every engine in rivers or on the sea-coast.' Its evasion, by 'certain novel modes of fishing' on the sea-coast is reprehended.

That 'increased facilities' for enforcing the law as to encroachments by fixed engines near mouths of rivers promptly, and at small expense, should be given.

That general regulations, founded upon the principle of the illegality of cruives (or traps for taking fish in dam-weirs) should be made applicable to all rivers on which more than one proprietor has a right of salmon fishing.

That 'much may be done by the owners of mill-dams in favour of the fishing interests,' without injury to the water-power; that the course should be kept shut, when the mill is not at work. The iron grating recommended in 1825 should be used, and the application of the "salmon-stair" to new dams be enjoined.

That 'after the termination of the ordinary fishing season, a further term of fourteen days should be allowed to fish for salmon, under certain restrictions, with the rod. Your committee are disposed to think that such a privilege will have a material effect in interesting in the improvement of the fishery the heritors (landowners) upon the upper parts of rivers, who chiefly possess the opportunity and power to protect the fish during the breeding season.'

#### MEASURES IN IRELAND.

The close season has remained uniform in Ireland, although old acts of parliament recognise the variation of rivers, and the Commissioners have been frequently urged to sanction departure from rules not in unison with the natural season.

Provided for by the law—which it is practically easy to evade, and difficult to see enforced by parties above.

The law for Ireland gave facilities for increased encroachments.

But few instances have occurred in which the law of 1842 has been put in force to regulate these traps.

The act of 1842 embraced these points; but they have been hardly at all fulfilled.

This privilege was not included in the act of 1842, nor conceded until 1846.

The subsequent legislation upon Salmon Fisheries, and the system pursued in their control, appear to have received a bias from the line of policy sketched out in the "Suggestions." If it can be clearly shown that such bias has proved detrimental and paralyzing to the main intention of the Inquiry—that of furthering improvement—this labour will not be in vain, and a hope may be entertained that a course of legislation and administration adapted to the peculiar nature of the circumstances may be somewhat promoted by it.

The object of 'catching as great a quantity of fish as can be taken, without the risk of producing scarcity in succeeding years,' so judiciously set forth in the "Suggestions" as the main one in application to the Sea, and 'the interest of the public in a maximum supply of fish,' alluded to in the Report, are considerations which appear to have too far influenced the adjustment of the question of permitting the use of improved methods of taking fish in Rivers at a subsequent time, when those clauses were introduced into the general measure by which the use of the Scotch stake-net, and other powerful engines, recently so multiplied in our estuaries and on the sea coasts, was legalized or facilitated.\* It may be remarked, that a fair mode of using trawl and trammel nets in the open sea, the improved methods applicable to the trade of sea fishing, might well be permitted to any of the public prosecuting it; while the only impediment to fishermen availing themselves of the removal of restrictions would be the want of means to purchase such nets: but the privilege of using or erecting the improved modes by *fixed* nets in rivers, estuaries, or on the sea coasts, was necessarily confined by the act to a small class, the owners and occupiers of the adjoining land, whose employment of those modes must immediately diminish the public fishery, and all other rights higher up the stream, to the impoverishment of the original followers of the calling, who have no power to avail themselves of such modes. A hostile feeling is consequently created between opposed classes.

\* This would appear on reference to the First Report of the Board of Works, as Commissioners of Fisheries, following the enactment of the new measure for the regulation of the fisheries. They state:—"The endeavour in framing the act has evidently been, to *open the modes of fishing* in such a manner as to admit of the greatest supply of fish being obtained by the public; while each should be under such partial restrictions as might tend to the preservation and increase of the breed, and enable all those who could reasonably claim the right, to participate in the fishery in a greater degree than they had ever done previously." This is referred to in the report of 1849, as "the sound commercial principle on which the Act 5 & 6 Vict. cap. 106, was founded." And, again, "this act, whilst it provided, as a matter of police, regulations for the guidance of different modes of fishing, aimed mainly at the increase of the quantity of fish by stringent provisions for close time and protection in breeding; and contemplated, irrespective of parties and classes, the capture of the 'largest quantities of fish in the best condition during the open season, consistently with the increase of the species.'"



The principle of non-interference by Government set forth in the "Suggestions," will be shown to pervade the subsequent reports of the Board of Public Works, and to have guided their proceedings after the management of the fisheries was committed to them by the Act of 1842. The original intent seems chiefly to have been to discourage ideas of pecuniary aid to the Sea fisheries, such as a renewal of the old system of bounties, loans, or donations (the soundness of the principle of which was doubtful, and the application had been vicious in practice), or the formation of a costly system of superintendence by Government functionaries; and also to prevent dependence on "Interference," in matters where the parties interested could resort to *the law*, or be reasonably expected to manage their own affairs. But it will be shown and submitted that the line of policy sketched out has been too rigidly interpreted, (and perhaps unintentionally misapplied,) and that in the endeavour to maintain the wholesome doctrine that the Irish community should learn not to lean unduly upon the aid of government help or authority in matters of enterprise, or in the application of the laws, the other extreme has been fallen into, by carrying it out with reference to the *regulation* of the Fisheries of Ireland, which claim more, perhaps, of the fostering care and direct interposition and control of the State than those of other countries, where the prospects, habits, and minds of the people engaged in them may require it less.

So well acknowledged is this need in the case of Ireland, that a direct interference between Landlord and Tenant is constantly proposed, and a measure has been recently introduced for the appointment of inspectors by Government, to value and make an award on improvements effected on the land by tenants. Such an extraordinary interference with private property, arrangements as to which are effected in England without any such means, can only be justifiable on the grounds of its extreme necessity, and for the advancement of the country. An analogous instance of governing control exists in the powerful position of the Poor Law Commissioners over boards of guardians, a semi-elective body, but requiring the direction of a central head. The success of the principle of 'self-management' must mainly depend on the private nature of the property concerned. It cannot be disputed that laws, or a governing system suitable to such property, are inapplicable to that of which the elements are essentially different. That the British fishery laws could be expected to act beneficially, and for practical good in Ireland, must imply a close analogy in all points. On this head, the evidence of the Lord Advocate of Scotland before the select committee of last year, shows that the Scottish fisheries are chiefly vested in private persons; while the evi-



dence given as to the salmon fisheries of Ireland shows that, with some great exceptions, their enjoyment is, in great part, exercised by the public, or scattered into innumerable private and conflicting interests.\* The circumstances attending this fact alter the entire bearings of the question; and it is submitted, that the non-recognition of this distinctive difference, and the consequent omission of such recommendations and provisions as would lead from it, constitutes the fundamental error in the subsequent measures and administration for the improvement and regulation of the Irish salmon fisheries.

In reporting on the Sea fisheries, the commissioners found it would be necessary to deviate with respect to their control from the self-managing principle, and to intrust a "responsible administrative board" with powers to frame rules adapted to different localities. The right of interference where public interests in the common use of the sea may be injured by individuals is also duly recognised as necessary to be provided for by the legislature, and the occasional need of the armed powers of the executive to preserve the peace and maintain the law is shown, and reference made to the employment of vessels of war for that purpose on the coasts of Scotland.

The Summary of Remedial Measures recommended by the

\* See page 6, and Report of 1849, pp. 227, 232; Boyne, 262; Cork, 305, 306; Blackwater, 393; Shannon, 72, 78, 86; Slaney, 250; and Waterford, 235, 243.

The salmon fisheries of North Britain are of great value,—they have, from their exclusive character, been sedulously cared for, and well legislated for, from the national unanimity of the Scottish representatives: they are almost entirely private property, held generally by individuals under ancient charters and grants; the common-law right of the public is greatly circumscribed, or little exercised. The legislature has provided laws suitable for their management, circumstanced as they are, which enable those who possess them, through their own agency, and unaided by the interference of a state department, to preserve them. The causes owing to which sufficient protection is received by the inland rivers of Scotland, appear to consist in these points:—First—The highly valuable interest that many of the nobility, chiefs of clans, and numerous proprietors enjoy in them. Second—The penal law of the country, and the general disposition to observe the laws. Third—The "interest of the sportsman," with its accruing value of renting the leave to fish, for the mere sake of sport.

The salmon fisheries of Ireland are very differently circumstanced with regard to ownership. Those of the northern rivers are owned by the London Companies; other rights of the most valuable kind are owned by persons who are frequently absentees. The "loyalty of clan-ship" does not prevail; but, generally, the rights of the public are prevalent. The right of fishery on the coasts of Ireland, and in the greater portion of the tideways of rivers, is exercised by the public; this is a material point as regards the mode in which they should be governed. Many thousands of the lower classes avail themselves of the common-law right, and circumstances arising out of locality, create many conflicting interests among this class, which again clash with the varied interests of parties possessing exclusive rights in portions of the coasts and tideways, and of the upper or fresh waters. Hence arises the necessity for the interposition of an authoritative power, and upon a system different from that which works well in Scotland, but is unsuited to Ireland, from the diversity and complexity of interests.

Committee of Inquiry is directed solely to the subject of the Sea Fisheries, to which their zealous labours had been chiefly and most usefully devoted. As the present endeavour is to draw attention to the injurious results to River Fisheries, by extending to their management a policy more suitable to those of the Sea, the following extracts will show that a system of Government control was deemed essential for the direction and superintendence of the latter—on the grounds of their *public* nature; from which will follow, that the same would be requisite for rivers, in cases where not only the property of the fish in them is for the most part as commonable as in the sea, but on account of the mixed state of the rights creating a frequent antagonism of private and public privileges, absolutely requiring greater attention and powers of control.

To vest some public department with 'the chief superintendence and control of all matters connected with the fisheries' was accordingly advised as a primary step. A vessel of the royal navy was to be furnished at the requisition of such body for protection and assistance, accompanied by a competent authority for the preservation of the peace; 'local regulations' were to be instituted by them, either for the due conduct of the fishermen, for the preservation of the peace, or for protection; and power given 'to frame and enforce rules and regulations' with respect to piers, harbours, and other public accommodations, such as were public property, or for which pecuniary aid in construction and maintenance would be given. It is plain that numerous and intricate duties would hereby be confided to the superintending body, irrespective of those attendant upon the second section, the present subject. These were intrusted, by the Enactment which (after a lapse of several years\*) followed, as the result of this report, to the Commissioners of Public Works,—a board at that time well suited, with the help of experienced assistance, to govern the maritime section of the fisheries, and especially to superintend requirements in which engineering skill was indispensable.

Still, many matters involved in the proper government of the entire Irish fisheries are foreign in their nature to those devolving upon a Board composed of engineers,—whose attention is occupied in discharging a multiplicity of other important employments, (for which they are professionally qualified), and who have not had opportunities of acquiring sufficient knowledge on a peculiar subject,—appearing to require, not only undivided attention, but a long and practical acquaintance with all its bearings.

How far these matters have been thereby disadvantaged,—

\* A Bill was introduced in 1838, but did not pass into a law, and nothing was effected until August, 1842.



whether the management and improvement of the fisheries of Ireland has received that attention it deserves,—and how far even the original intent of the instructions and consequent enactment has been injuriously narrowed in carrying out,—and the extent to which this valuable arm of our national wealth has suffered,—or may for the future remain unstrengthened,—is now a question of some moment.

Again, the gigantic operations set on foot throughout Ireland—to relieve the unparalleled wants of her population,—imposed, and continue to impose—on that Board an extent of arduous services, for the performance of which alone it has been doubted whether their powers were adequate. In the hurried struggle to provide immediate sustenance for a famine-stricken people, the intention of improving the future supply of food through means of the fisheries was in part unattended to. The sea fisheries, indeed, almost prostrated by the destitution, received a healthy stimulus, but those of the interior remained disregarded.

The Salmon fisheries, so far from advancing in value since the passing of the Act of 1842, have retrograded considerably. The legalization and increased use of the Scotch stake-net, (which, as observed in the “Suggestions,” exhausts the supply of fish ‘to an extent that threatens a material diminution in the stock for many years,’) have accelerated the ‘diminution of fish throughout the South of Ireland’ reported in 1836.

The lessees and proprietors of the fisheries in the North also complain of the provisions of the Act, and in their memorial to the Lord Lieutenant in 1848 assert, that ‘the fisheries, under the *regime* of the Fishery Board, have diminished nearly one half.’ That they are ‘sensibly deteriorating’ throughout Ireland is reported by the Board in the same year.

It would be difficult to weigh the different causes to which this result is attributable; whether it proceeds from a general disinclination to enforce the protective provisions of the law during the unhappy state of the country; *or*, on the other hand, is owing to the inequity and insufficiency of the Act itself. It may also partly be a consequence of the system of non-interference, the statute having remained a dead letter in many matters in which the executive alone had the power to put it into operation.

Thus, the “maximum supply of fish”—the fundamental purport of the movement—and the “interest of the public” therein—has not been attained.



## CHAPTER IV.

## PROGRESS OF LEGISLATION.

IN accordance with the recommendation of the Commission, a 'Bill for the Improvement of the Sea Coast Fisheries of Ireland' was prepared and brought in, in April, 1838, and, after committal, and deferral several times, was finally abandoned for that session. It contained provisions for the Board of Public Works to make grants in aid of the construction and erection of small harbours, piers, and quays, on the sea coast, to an amount not exceeding £2,000 for each, and for the useful purposes of providing boat-slips, moorings, capstans, and small harbour lights, upon one moiety being paid down, or raised by public assessment;\* and also to empower the board to grant loans to societies established for the purpose of making loans to fishermen, to enable them to procure, repair, or fit out boats.† This latter clause was omitted in the subsequent bill.

Early in 1841, a draft of a bill for consolidating and amending the laws was prepared and printed; the preamble sets forth, 'that further provisions and regulations should be made for the *encouragement* and protection of the Irish fisheries;' this bill was reiterated in the following year, with some alterations, and the omission of the introductory allusion to "encouragement," and, after some discussion, but a remarkable unanimity of parties in approbation of its general principles, it passed both houses on the 10th of August, 1842, as the statute 5th and 6th Victoria, cap. 106, entitled, "*An Act to Regulate the Irish Fisheries.*"

## THE BILL OF 1842.

During the consideration of the measures proposed by the bill of 1842, strong objection having been taken to the principle of recognising the use of Fixed Nets in the sea and tideways, a pamphlet was published, (*Irish Fisheries' Bill Memoranda*, London, 4th† July, 1842,) in which the subject was succinctly and ably discussed. The following extracts contain the bulk of the arguments advanced, with such comments as they call forth. The subject was divided into these two points of view:—

1st. The state of the law prior to 1842, as relates to the use of these Engines.

\* Agreeably to the 8th section in the Remedial measures recommended to be adopted.

† Agreeably to the 12th section.

‡ The bill to 'regulate the Irish Fisheries' (as amended by the Committee) is dated 5th July, 1842.

2nd. The equity or justice of the principle proposed to be adopted.

As to the original state of the law—the Act 10 Charles I. prohibited the “setting of stop-nets, still-nets, or standing-nets, fixed upon posts or otherwise in the rivers where the salmon should pass up from the sea.” Their use along the coast of the sea, (tacitly sanctioned by Magna Charta) was, perhaps, not rendered illegal by this act. It was contended that its intent was merely to prevent the destruction of fry. There is a difference of opinion how far Stake-nets cause such destruction;\* but a reference to the Act itself will lead to the belief that no such intent alone was designed, but that it was framed in the just spirit of many ancient statutes.†

It had been generally conceded at the time that the use of

\* “The stake-nets being placed in general within the tide mark, weeds get in and choke up the lower meshes of the net; the spawn, when they descend the river in spring, delight to sport in the shallow sand-banks where these nets are placed: these recesses are a security to them in such situations, while the tide is up, and there they will resort by thousands. As the tide recedes and becomes quite low, these fry, being then below the weeds that close the lower meshes, are unable to escape, and thus perish. If a method were devised for the complete extinction of the breed, I know of none more effectual than these round stake-nets.”—*Colonel Light, Employment of the Poor in Ireland*, London, 1830, p. 165.

Mr. Wilson, the principal rentor of the Tweed fishery, produced a letter before the Select Committee in 1824, stating that the stake-nets were ‘very destructive’ to the fry and smelts, ‘as they are seldom kept sufficiently clean to allow the fry to pass through them at this season, when they are going to the sea; and they (the nets) are kept up two months after close time, making the greater part of their fishing of spawning fish entering these rivers; no wonder we get few fish, when the breeders are destroyed coming to the river, and the smelt destroyed going to the sea, by these destructive engines and stake-nets, and yet we are told they kill neither the one nor the other. I have seen three large baskets taken out of the one at Campbeltown, full of dead smelts, on a Monday morning, and the only excuse was, that they could not cleanse their net of sea weed on a Sunday.’

† The words used are:—“For as much as great hurt and daily inconveniences have and doe ensue unto all the king’s subjects of this realme by the greedy appetites and insatiable desire, which sundry of them occupying fishing have used, by taking and killing the young spawn, frye, or breed of eeles and salmon, as well in salt rivers as in fresh rivers, loghes, plashes, fennes, and marshes, in many parts of this realme, as also setting of stop-nets, still-nets, or standing-nets, fixed upon posts, or otherwise, in the rivers where the salmon should passe up from the sea, to the great hindrance and prejudice of the commonwealth of this realme: Be it therefore enacted by this present parliament, and by the authority of the same, that no manner of person or persons of what estate, degree, or condition soever they be, with any manner of net, weele, or with any other device or engine whatsoever, shall willingly presume to take any frye, spawn, or breed of eeles in any river or water, salt or fresh, within this realme of Ireland; and over this, that no manner of person or persons from henceforth shall presume willingly to take or destroy in or by means of any weele, net, net of haire, or by any other engine, (angling onely excepted) fudgate, salmon pipe, or at the tayle of any mill or ware, or in any straits, rivers, or brooks, salt or fresh, within this realme of Ireland, the young fry, spawn, or breede of any kind of salmon called lake-spinkes, smowtes, or salmon peales; and also, that no manner of person or persons shall use or set or take any salmon with any such stop-nets, still-nets or standing-nets.”



the improved kinds of Fixed Apparatus within the limits of a "several fishery" should be sanctioned by Parliament. The Act of 26 George III., though saving to proprietors a title to weirs of which uninterrupted possession for thirty-one years had been enjoyed, or to those who held them by patent or charter-grant, whether corporate bodies or private persons, had expressly forbidden that any thing contained therein should be construed to give any right whatsoever to any person to erect or maintain any weir, but such as the laws then in being gave.

The new concession was intended for the benefit of the owners or lessors of entire river piscaries;—and not, by implication—to extend to the erection of stake-nets in real or doubtful 'several' fisheries on *one bank* of a public estuary. There were few piscaries of the former description in Ireland which the concession would have benefited; and the bill went farther, not only to abrogate the old law, but to create a new right of 'several' fishery, *quasi* the use of stationary nets, on the coasts and in estuaries, by the occupiers of land, subject to the landowner's consent. To permit their erection was a manifest encroachment on the common law right of every person to fish in the tideway, not merely as far as that part of the river occupied by them, but as creating a novel and powerful means of capture, by individuals, of much of the fish that would otherwise have passed up to the employers of the common modes.\*

The principle of 'conducting to the public advantage' by insuring a large supply of good fish, was the ostensible object of the measure; but this has not accrued—the fisheries have fallen off, and their decline must be attributed much to the operations of the act, and the insufficiency of subsequent arrangements to carry out its entire provisions.

2nd. With respect to the 'equity or justice of the principle proposed to be adopted.'

The contention between upper and lower proprietors required, (it is stated,) the interposition of the law. Great jealousies and differences had arisen: those along the estuaries and coasts had gradually extended the use of the obnoxious engines,† and they were accused of so effectually closing the

\* The Committee of Inquiry had recommended that the acts relating to the *sea* fisheries should be wholly repealed; the framers of the new measure extended this advice to the repeal of those relating to inland or river fisheries.

† Stake-nets were introduced into the lower Shannon by a native of Scotland, named Halliday, and that mode of fishing continued for many years with very great success. A trial came on, and they were pronounced illegal by the Court of Common Pleas, under the statute of Charles I., Lord Norbury being the presiding judge. In consequence of that decision, Mr. Halliday abandoned the fishery; but the peasantry of the country, having seen how the fish could be taken, set up weirs of their own: the individual proprietors would not do so, because they might have been liable to be proceeded against; but persons holding leases under them, generally poor people, put up the stake-nets along the



rivers thereby as not to allow any fish to go up during the open season.\* In retaliation, the 'upper heritors' became not merely careless of the protection of the breeding fish, but openly and avowedly in many places countenanced their destruction.

According to the law, the proprietor of a 'several fishery' has a right of property in the fish whilst within its limits, but no longer, or otherwise. The upper proprietors, therefore, have their rights vested in them *subject to the rights* of the lower proprietors wherever they may own 'several fisheries,' and the rights of both are again subject to the common-law right of fishing in the sea and tideway. The new Act not only gave to the owners of 'several' fisheries in estuaries power to use Fixed Engines, not only confirmed those in use for ten and twenty years, but gave a power to landlords and tenants to erect new ones under certain circumstances; all which powers, manifestly tended to the great diminution of those of parties above, already naturally curtailed.

The object proposed by the promoters of the measure, was 'a just, equitable, and impartial settlement, between the various conflicting interests involved, giving to *each as much benefit* as was consistent with a due and proper preservation of existing and established private rights, and with advantage to the public.'—*Irish Fisheries Bill Pamphlet*, London, 4th July, 1842.

This settlement was proposed to be effected;—First—By the removal of *doubts* (as alluded to in the clause of the Act) as to the legality of the use of fixed modes of fishing in the sea and tideways; then subjecting them to restrictions, and *requiring* the observance of the close times by them.† Secondly—By requiring every trap for the taking of salmon to be opened for thirty-six consecutive hours in each week;‡ by empowering the open-

shores; the parties interested above did not find it worth while to proceed against them. In 1824 the police were sent down the river, and cut down these weirs indiscriminately. A collision ensued between them and the country people.—*Evidence of T. Spring Rice, Esq., M.P.*, (LORD MONTEAGLE,) one of the Select Committee, 1825, p. 157.

\* "There are certain rich landholders (in Ireland), who possess the right of fixing locks and weirs across the mouths of rivers, to prevent salmon from passing; and below these weirs the fish are detained till they are caught; and although an Act of Parliament was long since passed, that these weirs should be open from Saturday night till Monday morning, for the fish to pass freely up, this is wholly forgotten, or neglected to be enforced, by those whose interest it is to require it; and the consequence is, that the fish are never permitted to proceed up a river so obstructed, till they are no longer fit for food, and in some instances the locks are not at any time opened, even to admit them to proceed to spawn."—*Colonel Light, Employment of the Poor in Ireland*, London, 8vo. 1830.

† The owners of these engines who did not observe the fence-months or close season, would come in the catalogue of 'the divers wilful persons' alluded to in the Act of Henry VIII., as only 'having respect to their own wilfulness, singular commoditie, and benefite.'

‡ Those who failed to observe the Sunday, or weekly close time, are in the category of persons with 'greedy appetites and insatiable desires,'—reprehended by the statute of Charles. For such evils the Scottish committee advised more

ing of 'a queen's share'\* in solid weirs, and by empowering passages for fish to be made in all natural obstructions, and over all artificial dams, so as to allow a portion of the fish free passage to the upper parts of rivers during the open season.

Such being the 'objects' of the Act, as set forth in the above-mentioned publication—their fulfilment, so far as the increase of produce and the compensation thereby to existing interests, (infringed upon for the public good,) would depend on the extent to which those compensatory means were acted upon: and it is contended,—*if* the new law was *not* sufficiently stringent to put down illegal weirs summarily,—to enforce the observance of the close times by Fixed Engines,—to open queen's shares—remove obstructions, and make migratory passes,—that, while benefits were actually conferred on newly created interests, the law, proving ineffective to secure what should have accompanied them, (and on which the success of the full measure depended,)—became inequitable and unjust in operation.

The *brochure* proceeds—'In the preservation and protection of the breeding fish, not only the interests of the three classes of proprietors in each river *are common*, but those of the public *are essentially concerned*. The upper proprietors hold the spawning beds, the nurseries in which the fish are reared, and they have in their power, to a great extent, under any state of the law, the preservation or destruction of the species. If they get no share of the good fish during the open season, it is not to be expected that they will protect the breeding fish in the close season. In the present state of the law, and the practices of the owners of weirs on the lower part of rivers, the proprietors

stringent penalties. It is difficult for upper proprietors, whose interest might lie from twenty to a hundred miles off, to watch the observance of this latter cessation from taking salmon; and, on the part of the public fishermen, perhaps, a hesitation to challenge the acts of protected stake or bag net owners, by bringing them before the local magistrates. The practical difficulty of ascertaining whether the leaders of bag-nets are tied up, in the open sea, is well known. Somewhat similar difficulties would be presented to those owners as to procuring protection in remote interiors, and convictions for killing fish in the close season.

\* *QUEEN'S SHARES IN SOLID OR 'CRUIVE DAM WEIRS*.—The antiquity of these exemptions to prevent entire monopoly is equal to that of statutes to restrain it.

The Mona-rea or gap of the king, in the great Limerick weir, is probably as ancient as the 12th century. By an ordinance of Alexander III. of Scotland, the space left should in all parts be "swa free, that ane swine of the age of three zeirs well fed, may turne himself within the stream round about, swa that his snowt nor taill sall not touch the bank." Various fraudulent contrivances have been employed to defeat their intention, for preventing the fish from passing through them. In the course of last year the gap in the weir near Coleraine, was found to have been obstructed for several years by means of a plank, to which were fastened a series of iron bars pointing down stream. The lessee of the corporation of Limerick formerly employed an ingenious device for this purpose, called a "crocodile,"—a piece of timber 'something in the shape of an alligator, painted with very glaring colours, so as to frighten the salmon.'—*Evidence*, 1825, p. 60.



in the upper part of most rivers can seldom, and in some places never, get a fish during the open season. The natural result in such cases will invariably be found to be, (as can be shown in many instances,) as follows:—The lower proprietor catches every fish he can, uses every exertion to prevent a fish passing above him; the upper proprietor allows the destruction of the breeding fish, and in a few years, if the practice be continued, the fish become less in size and quantity, almost to annihilation of the fishery.

‘It is peculiarly the interest of the lower proprietor and the coast fishers to join in the protection of the breeding fish, and to concede to the upper proprietor some interest in the fishery, to obtain his protection for them; and, as a part of the means of accomplishing so necessary an object, it would appear to be desirable that a power to form associations, and to *assess all persons* benefited for the necessary expenses of the protection of the breeding fish, should be given, and perhaps that provisions to this effect should be added to the Bill.’

The Bill had, therefore, to be framed so as to permit such a quantity of fish to ascend as would promote the double object, of making the upper proprietors sharers to such an extent in the fishery during the open season as should prove a stimulus to them to protect, and of leaving enough *early* spawning fish for breeding purposes; and this, coupled with the protection of the fry, it was expected would greatly increase the produce of each river.

But while thus augmenting the powers of capture, the provisions for protection and improvement remained in practice inoperative. Every instrument for destruction and capture, from the seven-pronged spear to the weir of half a mile in length (the first the most fatal of the two), has been brought into almost unremitted action, and the hapless salmon that, in its upward course, had escaped the cross-fire of twenty weirs,\* and run

\* **NUMBER OF WEIRS.**—There are one hundred and twenty rivers in Ireland frequented by salmon, of which there are fishing weirs thrown entirely across thirty-seven, and there are stake-weirs in eleven.—*Report of Select Com.* 1849.

There are no less than thirty-six weirs on the Barrow and Nore; and twenty-five from Waterford to the sea.—*Evidence*, pp. 510, 446. Twenty-two illegal weirs were reported on the Suir in March, 1849.—*Appendix*, p. 92.

One of those on the Barrow, is of as old a date as 1246, when the Earl of Norfolk was seized of the ‘*gorges de Corkery*,’ (query, *Con-cora*, the ‘ancient head-weir’ noticed in the act of 1842?) near Ross.—*Inquis. Turr.* London.

In 1307 the Earl was found seized of a ‘*gorges*’ at Kilsallan, ‘*ad anguill capendum*,’ (an eel weir.)

There were twenty-three stake-net weirs in fishing order on the Blackwater last year. The estuary of the Shannon is so thickly studded with their stakes, that it is said to represent the appearance of a hop-garden in Kent. The multitude of stake-weirs erected since the enactment of 5 & 6 Victoria has, in many instances, occasioned great discontent among the old class of fishermen, who declare, that by that Act ‘the property in fisheries was taken from them, and handed over to the landlords.’—*Evidence*, 1849, pp. 401, 509.



the gauntlet of a hundred drift nets, was finally transfixed by the night poacher in the very act of multiplying its species!

The advantages proposed to be conferred on the proprietors in the interior\* by the Bill, were to be weighed against those of the new apparatus, and made dependent on them,—in effect, were expected to accrue out of them, by voluntary contributions, or by assessment, the burden of which would fall on the owners of the commercially valuable fisheries. The result has proved that voluntary associations have failed. Such contributions have not been made; and it is to be apprehended that the recent measure of assessment will only provide funds sufficient for the purposes of protection, and inadequate for those *auxiliary means* of increase,—the provision of passes through natural and artificial obstructions,—on the general employment of which the full development of our river fisheries now mainly depends.

Those means which are required to be attended to by the Authorities (without the preliminary step of application, or the necessity of funds being provided by the parties interested), are:—

1st. The opening or enlarging queen's gaps in weirs subject by law to have them.

2nd. The regulation of the length of spur-walls in all dams.

3rd. The proper construction of boxes, cribs, or cruives, in fishing weirs.

4th. The causing passes to be provided in all newly erected mill-weirs.

It does not appear by the published proceedings of the Board of Public Works that any of these requirements have been acted upon by them, nor is it believed that they have been, to any extent, although the Act has been a law more than seven years.

The second class of productive measures is that where previous application, and the provision of funds by the parties interested, are necessary:—

1st. Opening queen's gaps where the law could not have

\* The antagonistic claims to the 'property' of salmon in a large river may be divided into three classes:—

I. Those at the mouth and along the coasts, generally employing stationary contrivances.

II. Those in the tideway, for the most part cot-men, using the public right with drift or draft nets.

III. Those in the fresh water portions, confined mostly to the use of the rod and line.

In point of fact every fishing station along the coast, or in a river, is an evil to those more inland, and those above are in the position of considering all means used below as more or less an interference with their powers. The anomaly must always exist that those who are most powerful for protective purposes have the least means of reaping the eventual benefit. Let the law be ever so favourable, any large proportion of the fish could never reach them, because, as is well known, salmon hang in the tideways and channel during the dry summer months, and do not ascend in any considerable numbers until the floods of autumn, when ready to spawn, and the close season has begun.

enforced them, and compensation was to be assessed. Here the law is defective, because the parties to consent are not those most materially interested, and the details are too cumbrous to be practically carried out.

2nd. Putting passes over mill-dams erected prior to the Act, and removing natural obstructions. In these cases the funds were to be provided by the parties applying and not assessed, and the remark as to insufficient interest equally applies.

The first item has remained a dead letter. For the latter, although the means of greatest consequence for insuring the full increase of brood, it does not appear by the reports furnished that any results have been obtained through the instrumentality of the Board; but one or two cases, only, may have occurred where its powers were exercised.

It may be said with truth, that these provisions have been generally inoperative.\* The interests situated above the new machinery have, therefore, reasonable grounds of complaint:—

1st. Of the infraction of the principles of early statutes directed against monopoly.

2ndly. Of the diminution of their original powers of capture.

3rdly. Of the non-realization of those measures intended as compensatory for the encroachment, and employed as arguments for the bill.

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NOTE.

THE POLICY OF PERMITTING THE USE OF FIXED ENGINES was argued on the following reasons:—

“1st. That salmon is in best condition as an article of food in the sea and tideways, and deteriorates in value in proportion to the length of time it remains in the fresh water.

“2nd. That the extension of fixed modes of catching salmon in the sea and tideways at proper seasons and under proper restrictions, coupled with a reasonable protection of the spawning fish, tends greatly to the increase of the gross quantity of fish caught.†

“3rd. That great quantities of salmon are caught in these weirs which would otherwise be destroyed by porpoises, seals, &c., as the salmon remain for a considerable time in the estuaries, passing up and down with the tide, (during which time they are exposed to the attacks of these animals,) before they seek their way up the river to the spawning-grounds; and that, when they feel the full impulse of nature to proceed to the spawning-ground, they keep the deep water in the channel, and therefore cannot be taken in stake-weirs, which, by the bill, are only to extend to low-water mark.

\* See the Reports of the Inspecting Commissioners, in Appendix.

† “See Evidence as to Lough Foyle, Second Report Irish Fisheries, page 19, where it is proved after nine years’ trial of stake-weirs, that the gross quantity of fish caught was increased more than three times; and the same result is at present taking place in the Shannon.”

[N.B. But the case of Lough Foyle is that of a fishery, the profits of which are principally *private*, and is therefore not generally applicable.]



"4th. That stake-weirs, under the restrictions of the bill, will leave an ample breadth of channel beyond them at all times (not less than three-quarters of a mile) open for the free passage of the fish to the rivers; and that, during close season, and for thirty-six hours in each week during the open season, the passage for the fish through the weirs is to be unimpeded.

"5th. That this mode of fishing has in many places been long established and considered as fixed property, and gives profitable employment to many persons.

"6th. That this mode of fishing under the restriction of the bill, is a means of carrying out a sound principle, namely—that the greatest quantity of good fish should be caught for public consumption, by permitting the greatest number of persons to use *the cheapest and most improved methods*, whilst, at the same time, all practices are prevented tending to lessen the supply or destroy the species."

Other arguments are advanced in this paper in favour of their use, such as the impossibility of the use of draft nets over rocky bottoms, or where strong tides run, and the in-economic prejudice against the employment of efficient machines, on the ground of their causing a diminution of employment. The existing state of things, and the probable increased ill consequences of the unsatisfactory state of the law regarding these engines, is also brought forward as a reason for definite legislation. Their use was rapidly increasing, subject to no restrictions as to extent, situation, close times, or form of construction, and without the requirement of any weekly opening for the passage of fish. "In many places of Ireland, they have been used vexatiously and injuriously to the public interest in localities where their use is proposed to be prohibited by the bill; whilst in many parts of Scotland, it is stated that they have been increased in number in the narrow parts of many rivers, and extended almost to meeting across their mouths, so as to deprive the upper fisheries of a great portion of their value."

Many persons, arguing from this abuse, had contended that the principle of legalizing these engines should be rejected, while on the other hand, it was advanced that their establishment in many cases, and usage, had created a just title, and that the privilege having been generally conceded to the proprietors of lands adjoining the sea and tideway, of being the 'usufructuaries' of the shore, between low and high water mark, it would appear impracticable to suppress or restrict the exercise of those rights, provided they be not extended so as to become detrimental to navigation, or otherwise to create a public nuisance. The various restrictions on their use were to confer advantages not then in force equally on the proprietors of the lower and upper parts of rivers, as a portion of the equitable settlement proposed to be effected as regarded the salmon fisheries, and to these the coast proprietors were called on to accede, in consideration of the removal of the legal doubts, and on account of the advantages they would, in common, derive from the preservation of the breeding fish.

The pamphlet sums up with these conclusions:—

'1st. It is admitted by all, that a Fishery Act is essentially necessary, and has long been required, both for the sea and inland fisheries of Ireland.

'2nd. It is admitted that such an Act must provide a settlement of the many conflicting interests in salmon fisheries.



'3rd. It is clear that the settlement, to be lasting and valuable to the public, must be *equitable*.

'4th. It is manifest and admitted, that the proprietors in the interior will derive great advantages from the operation of the Act, from which *they are now, and without the Act must continue to be debarred*.

'5th. And it may be perceived from this paper, that to add to these advantages of the upper proprietors, by depriving the proprietors on the *coast*, of the right to use these engines, could form no part of an *equitable* settlement, and would really be injurious, instead of conducive, to the public weal.'—*Pamphlet on Irish Fisheries Bill*, London, 4th July, 1842.

Let us hear old Isaac Walton's views on the subject of protection:—

"VENATOR—Why, Sir, what be those that you call the Fence-months ?

"PISCATOR—Sir, they be principally three, namely, March, April, and May\*, for these be the usual months that salmon come out of the sea to spawn in most fresh rivers, and their fry would about a certain time return back to the salt water, if they were not hindered by weirs and unlawful gins, which the greedy fishermen set, and so destroy them by thousands, as they would, being so taught by nature, change the fresh for salt water. He that shall view the wise statutes made in the 13th of Edward I., and the like in Richard II., may see several provisions made against the destruction of fish ; and though I profess no knowledge of the law, yet I am sure the regulation of these defects might be easily mended. But I remember that a wise friend of mine did usually say, 'That which is everybody's business, is nobody's business.' If it were otherwise, there could not be so many nets and fish that are under the statute size, sold daily amongst us, and of which the conservators of the waters should be ashamed.

"But above all, the taking fish in spawning time, may be said to be against nature ; it is like the taking the dam on the nest when she hatches her young : a sin so against nature, that Almighty God hath in the Levitical law made a law against it."

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## CHAPTER V.

### POLICY OF LEGISLATION.—THE ACT OF 1842.—ITS MEANS FOR CONTROL AND IMPROVEMENT.

THIS enactment forming the foundation on which future improvement of the Fisheries was to rise, it becomes a matter of importance to test, by means of public documents, how far the Legislature deemed it wise to sanction or to depart from the intention of the original salutary movement. Moreover to trace out from similar sources, such as the papers laid before Parliament, and published by authority, how far that intention has been fulfilled, or the contrary ; and also, how far the express provisions of the statute itself have been acted upon, or departed from.

Such an endeavour, and such an analysis of the Act as will

\* The statute 13 Edward I. prohibited taking *salmunculi* by nets, or in other ways, from the middle of April till the end of June.

explain the tenor of its various bearings, of its policy and provisions, and point out latent defects, will be found throughout this 'Inquiry.'

The fundamental principle of the Act appears to have been the essentially just one of not infringing on existing rights, where expedient for the general good, without affording due powers of compensation, either by providing for the general increase of fish, or by separate awards where distinct private privileges were invaded:—with the healthy intent of leaving the vindication of all rights to the parties concerned:—and giving facilities for repression of encroachments, and ample powers for control and improvement.

A great number of former enactments were repealed. The unjust requirement of a qualification to kill salmon, contrary to the principle of enjoyment of '*common of piscary*,' and to our general freedom, was very properly exploded. Definite provisions were made for matters before doubtful. Owners of 'several' fisheries on the sea coasts and estuaries were empowered to erect fixed contrivances. No restrictions not previously existing were put on the right to angle. 'Several' rights were conferred on tenants of lands adjoining the sea shores and estuaries, and the rights of the poorer class of fishermen who depend on salmon fishing in the tideways, and in common public fisheries, were strictly preserved at law.

It was believed that, it being the interest of all classes to observe the law, a general spirit of protection would arise.

The Act also contains provisions for further regulation and improvement. It constitutes the Board of Public Works Commissioners for its execution, and invests them with many powers more enabling than ministerial. So far as this portion of their duties is concerned, the public could not expect that any general interference through their officers in putting the law in force would be adopted; neither is it the opinion of those anxious for the improvement of the Irish Fisheries that any such system should have been adopted.

In framing the Act, however, another most important principle is specially recognised, namely, that of superintendence, investigation, and inquiry. The general disorder and long continued abuses, and the neglect of the law, had so deranged the Irish Fisheries, had so involved them in confusion, that no measure, in its first application, could be expected to meet all requirements and exigencies; therefore the Legislature deemed it necessary to do something more than merely legislate for the infliction of penalties. Accordingly comprehensive and efficacious powers were vested in the commissioners to ordain such by-laws, orders, and regulations as in their discretion should seem expedient for more 'effectual government, manage-



ment, protection, and improvement'—provided they were not repugnant to any existing statute, and were approved of by the Chief Governor of Ireland. They were also empowered to hold general meetings, summon witnesses, and examine upon oath—for inquiry into the state of the Fisheries in each district, and the best means to be adopted for the above purposes. To make annual reports to Parliament, as to expenditure and accounts of penalties received, and containing, as far as might be practicable, such statistical accounts, under different heads, of value, returns, &c., as might be useful.

#### THE SEA FISHERIES.

The fish of the sea—incapable of increase from human cultivation, and supplied by an element boundless as to extent—are hardly exhaustible by the means that man can apply to convert them to his use, his 'dominion over the fishes of the sea and the fowls of the air' being but limited in power. That which is obviously designed for the use of all, has—by the laws of nature and of man—been left as free as the need of interposition, to prevent it from becoming a cause of strife, or to restrain injurious methods of appropriation, would permit.\*

\* CONTROL OF THE SEA FISHERIES.—“There is no part of the present investigation more beset with difficulties than to ascertain the point to which the Legislature is bound to restrain the fisherman in the exercise of his art, with reference to engines and to practices deemed dangerous to the preservation of the breed of fish. It is here that evidence fails altogether to satisfy the mind; scarcely a single fact being advanced which is not positively contradicted, by equally respectable testimony. The validity of any doctrine on these subjects reposes on facts in the natural history of the animal to which it refers; and the habits of fish are very little known, even to the best writers on ichthyology. In almost all such questions conflicting interests are engaged; and complaints are most commonly directed against the practices of rivals. It occurs, likewise, that when any particular fishery has ceased to be productive, the minds of the sufferers, go, as it were, on a criminating inquiry, in search of a plausible cause for explaining the phenomenon; and then the imagination eagerly seizes upon some circumstance by which a rival exclusively profits. The rival, too, necessarily strives to justify his own practices; and thus, what one party asserts the other as strenuously denies. That there should be a right to interfere where public interests are injured by individuals, requires no proof; and the sea, though a common open for all to resort to, is not so much the property of any individual, that he may lawfully work it to the detriment of his neighbours, or of the nation at large.”—*Report of the Commissioners of Inquiry*, p. 21.

At the same time interference was deprecated except on special justification and demonstrated necessity. The Commissioners recommended that the difficult questions when and where the use of trammel and trawl nets, which are sometimes injurious, might be permitted or prohibited, should be intrusted to a responsible administrative board, exercising a general superintendence over the Irish Fisheries. With respect to sea fishery protection, they reported that great injury to property arose from unrestrained violence at sea, and from combinations on land. “Such violences, independently of the consequent breaches of the peace, check the development of the fisheries, and enhance the price of fish to the consumer; and wherever the fishermen assemble in large bodies, serious evils from these causes, are matters of every day complaint.” A force to preserve the peace, equal to encounter the difficulty, and to overawe the offenders, was essential to the prosperity of the trade. For this purpose the services of the coast guard, of revenue cruisers, and occasionally of armed vessels, could be engaged.



An exclusive right to the surrounding sea has been conceded to each nation, on its own coasts, within cannon shot of the shore.\* But in such a field, where the rivals of three countries may meet, or the natives themselves quarrel as to debatable grounds or disputed methods, the intervention of authority is often requisite. To interfere, control, and restrict with judgment, seems to require the practical experience of a follower of the craft, combined with the knowledge of the naturalist and the hydrographer.

The Deep sea and In-shore fisheries of Ireland appear to need and deserve an active care and liberal policy to be extended to them, to lay the foundation for permanent and important improvement. With regard to the extent to which Government interference and assistance may be legitimately and usefully applied, within the bounds of strict and impartial justice to this country, the amount to which they have received the aid of public money, or now receive it, may be placed in contrast to that expended for those of Scotland. According to a return† printed by order of the House of Commons, the following sums were granted for the encouragement of the British Fisheries:—

From 1809 to 1819,	.	.	£327,282	9	6
„ 1819 to 1829,	.	.	762,461	0	8½
„ 1829 to 1841,	.	.	192,977	13	10
			<hr/>		
			£1,282,721	4	0½

In 1819 Ireland commenced to receive similar pecuniary aid, and from 1819 to 1830, received £259,358 6s. 6d.:—showing a receipt by British fisheries in excess of the sum accorded to Irish of more than one million sterling.

In 1830, bounties were extinguished in both countries, the whole staff and establishment abolished in Ireland, and the same Act which repealed the Irish fishery encouragement, continued all encouragement for Scotland, *except* the bounties.

A return moved for by Sir Henry Winston Barron, (29th May, 1845,) shows that in ten years from 1835 to 1844, Scotland has received as ‘grants for promoting the Scotch fisheries:’ for the general purposes of the service (average £11,000 a year), £114,700; for building piers and quays, £24,091; for repairing the boats of poor fishermen, £5,000; total, £143,791. Ireland in the same time received £18,842 2s. 4d.

From 1844 up to the present time, Scotland continues to receive at the rate of £14,000 a year, and Ireland annually at the rate of about £1,200.

There has certainly been a sum of £90,000 allotted during

\* M'Mahon on the Fisheries.—*Dublin Review*, 1842.

† Returns moved for by E. B. Roche, esq., M.P., 1st July, 1842.

the famine to Ireland, for grants and loans to construct piers, quays, and harbours; a valuable boon, as is proved by the numerous applications to participate in it by parties who join in the cost.\*

These figures speak for themselves. The call for 'justice to Ireland' is often said to be a 'parrot-cry,' and requests for aid are sometimes met by ungenerous taunts. It is, however, the part of those who should deal with an even hand to see whether these appeals are fairly founded. A larger number of *boats* and *men* are employed in fishing in Ireland than in Scotland. Yet although the *trade* does not exist to the same extent in Ireland as in the sister country, and therefore the same superintendence is not required, it does not appear that a just proportion of Government assistance is maintained in the case of the former; and, with respect to the expenditure appropriated to encouragement, may it not be asked whether such measures are not as much needed to build up as to sustain a trade?

The Scottish Fisheries are fostered by the aid of the Treasury. The governments of France, Belgium, and Holland, extend much care and superintendence to those of their countries.†

\* "The applications to the Board of Works for erecting piers, &c., were much more numerous than could be supplied by a grant of twice the amount given by the (first) statute, evidencing in no small degree that there is a desire to encourage and protect the interests of the fisheries, at all events in this particular."—*Paper of the Royal Dublin Society on the Irish Fisheries*, by J. C. Deane, Esq., 1847.

† The British seas are an unbounded common, remarkable for its great fertility. As far as the state can interpose, it should be its policy to attract the population towards the sea-coasts. The security of the empire lies in its maritime power, and our fisheries are the nurseries for seamen.

The Danes, a sea-faring people, who possessed themselves of all the important ports of this island in the 9th and 10th centuries, carried on a lucrative trade by means of these resources. The celebrated De Witt, in his political maxims, computed the number of people in the united provinces at 2,400,000, and of these he reckoned 450,000 obtained their living by the fisheries at sea, and attributed the great superiority of Holland to its being so situated that its inhabitants could draw a great part of their subsistence from the ocean.

Philip II. of Spain, whose connexion with the Netherlands had doubtless made him acquainted with the full value of this element of national wealth, paid an annual sum of £1,000 for license to fish on the northern coasts of Ireland for twenty-one years. The Dutch purchased a similar privilege in the reign of Charles I., for which this thrifty and shrewd people thought £30,000 not too high a price.—See *Fraser on the Fisheries*. Edinburgh, 4to. 1818.

That in earlier times they furnished a staple commodity for export is to be learned from many sources of history; among others from a curious poem, (introduced by the poet Campbell in his *Naval History of Great Britain*,) to be found in Hakluyt's *Voyages*, entitled 'The Policie of keeping the Sea,' believed to have been composed in the beginning of Edward the Fourth's reign. Towards the conclusion there is a project of the then Earl of Ormond, (who may be said to have represented Ireland at court,) suggesting that if one year's expense in the maintenance of the French wars were employed in the reduction of that island, it would answer the purpose effectually, and produce a very considerable profit annually to the English nation. Yet this, as the writer complains, was slighted, from views of private profit, to the great detriment of the public. One



Those of Ireland received the zealous attention of our earlier statesmen, and are still worthy of it.\*

The assistance formerly given to the Sea arm of the fisheries of this country having been withdrawn, these resources became less worked, principally from the want of means, and the ignorance of the coast fishermen as to adoption of the best modes of capture;—the absence of exertion on the part of those who might feel locally interested in their development; and, along the eastern coast, where the best markets are found—from the deficiency of good harbours and of piers. The Enactment is chiefly directed to the intricate matters of our Inland waters; but, of the portions relating to those of the sea, several sections leave disputed or difficult regulations to be determined by by-laws to be framed by the Commissioners. Some encouragement was afforded by the provision for empowering them to hold Meetings with proprietors of fisheries, for inquiry into their state, and the best means to be adopted for their regulation, improvement, or protection. It was expected that this department of industry would have animation thrown into it, the ignorance of its followers partly dispelled, altercations allayed, and perhaps capital attracted to those branches in which it is required, (namely the deep-sea fishing, and the establishment

chapter treats ‘Of the commodities of Ireland, and policie and keeping thereof, and conquering of wild Irish.’

‘I cast to speake of Ireland but a litle:  
Commodities of it I will entitle,  
Hides and fish, salmon, hake, herring,  
Irish wooll, and linen cloth, faldinge,  
And marterns goode ben her marchandize;  
Harte’s hides, and other of venerie,  
Skinnes of otter, squirrell, and Irish hare,  
Of sheepe, lambe, and foxe, is her chaffare.

Of silver and golde there is the oore  
Among the wilde Irish, though they be poore:  
For they are rude, and can thereon no skill:  
So that if we had their peace and good will  
To myne and fyne, and metal for to pure,  
In wilde Irish might we find the cure.’

In the Dittamondi of Fazzio delli Uberti, a Florentine poet, (1357,) we have the following testimony as to the antiquity of our export trade of woollens:—

‘Similamente passamo en Irlanda,  
La qual fra noi e degna di fama,  
Per le nobile saie che ci manda.’

So we pass into Ireland, worthy of our commendation for the fine friezes she sends to us.

\* Sir James Ware, in the time of James I., reckons “among the advantages of Ireland, her great and plentiful fisheries of salmon, herring, and pilchards, which, salted and barrelled, are every year exported to foreign parts, and yield a considerable return to the merchants.” Sir William Temple, the philosophic secretary for Ireland, whose acquaintance with Holland had proved to him the value of the wealth she drew from our seas, writes to the lord lieutenant in 1673,—“the fisheries of Ireland might prove a mine under water as rich as any under ground;” and he might have added—not so capable of exhaustion.



of curing-houses,) by such consultations, and by the advice of impartial and generally experienced men, having the *présteige* of authoritative officers.

For purposes of stimulating and for superintending the trade, the Scottish fishery board employs two general and forty local inspectors, and has the services of one of her Majesty's cutters, and occasionally of two steam-vessels of the Navy.

Powers are given by the Act to extend similar advantages to the Irish board, but they have not been exerted; and, with the exception of some meetings held at the time of the inquiry into the close season of the river fisheries in 1844, few of such meetings have taken place.

#### THE SALMON FISHERIES.

The salmon fisheries of Ireland may be said to need a watchful solicitude as to every circumstance connected with them. A correct basis in legislating for them can only be formed, and carried out in management, upon scientific acquaintance with the many circumstances bearing upon them, such as the changes of the tide, the effects of currents of rivers, the varied construction, operation, and efficiency of weirs, nets, and other devices for capture. An intimate knowledge is requisite of the natural history and habits of Salmon, and a practical experience of matters affecting their migration, such as the stay they make in estuaries, waiting for floods, the seasons at which they are most abundant; the facilities for their capture in different parts of rivers; and the effects of, or means of remedying, artificial or natural obstacles to their ascent to the spawning grounds, those multitudinous fields in which the seed of the future harvest must be sown.

The fluctuating, unrestrained nature of this tenant of the waters, free as those of the air—yet hidden from the eye of man in its uncertain transit—invests this mysterious gift with phases more peculiar than belong to others of the *feræ naturæ*;—the doubtful rights to which appear to be a means designed to try the justice and charity of mankind.\*

Not the property of any until captured—it is more than any

\* The circumstances of game differ from those of fish in a 'several' fishery in these respects: game is nowhere public property; a qualification is required to kill it legally; when taken by the poacher it is on the exclusive property of an individual, who has perhaps incurred large cost in its food and preservation, and may be in receipt of a lower rent for his land on account of the game fed on it. But any man, who, by greatly increasing his preserve, and failing to provide sufficient protection, places temptation in the way of his poorer neighbours, may be said to incur a moral responsibility.

"In the state of the law which has existed in Scotland from time immemorial, people have come to know that salmon fishing is a property of peculiar value, and to look upon it as a matter in which the proprietor is entitled to much more stringent regulations for his protection than in the case of ordinary game."—*Evidence of the Lord Advocate of Scotland*, 1849, p. 523.

other exposed to the unscrupulous;—the ‘silent highway,’ open to all,—the obscurity of night—the excitement of pursuit—the impossibility of its identification—are all circumstances in favour of the violator of the law. The varied interests along the course of a great river—all antagonistic;—as in the fable of ‘the wolf and the lamb’—the devourers below inveighing against those above, and they again perhaps as unjustly jealous of interception;—the obstacles that human nature presents to the repression of encroachments and trespasses—whether on the part of men of power—or again of the public on private privileges—hard to define, and easy to infringe,—must tend to weave a complication of difficulties requiring more than ordinary consideration in legislating on them, and more than ordinary powers to be given for their control.

With evident appreciation of these manifold difficulties the new Statute was framed to meet them in a great degree. It contains many materials for bringing the Irish fisheries to their highest value, having been so judiciously arranged that ultimate modifications, and accessional legislation, might be adopted or recommended by the constituted authorities after inquiry and experience. Excepting in the introduction of the clauses establishing the legality of fixed apparatus, (the policy of which was inequitable in rivers where public rights exist in the tideways,) many unobjectionable portions of the old code of laws, and some of the recommendations of the Commission of Inquiry were re-enacted or adopted; and, if vigorously administered, the full code of provisions would have been found as completely applicable as could at first have been devised for a perplexed and abstruse subject.

The omission for a long lapse of time of legislative measures and proper control was thus removed by this enactment, followed rapidly by others of an accessory nature; that of 1844 brought in the powerful aid of the Constabulary, (in addition to the powers previously conferred on the proprietors of fisheries to appoint water-bailiffs, and on the officers and men of her Majesty’s cruisers, and of the coast guard service,) to enforce the provisions of the law; the full force of the State was, with the exception of the military, now enlisted for the protection of our national fisheries. When the nature of the property, that of the interests concerned, and the fact that they are most exposed to injury in the remoter and less civilized districts of the land, and around the sea-coasts, is considered, it cannot be said that such ample means for enforcing authority were not required.

## CHAPTER VI.

## MANAGEMENT UNDER THE BOARD OF WORKS.

THE system of the management of the Irish Fisheries, after its committal to the Board of Public Works, as "Commissioners for the execution of the Act," is to be learned from their public reports.

In an inquiry of this nature—the object of which is to further improvement—it will occur that those points which are open to objection are those to be brought into view; nor can the absence of noticing other circumstances be held an omission: whatever credit is justly due to the Commissioners—if not offered, is not wrongly withheld,—and the ensuing remarks are made less in a spirit of animadversion than of inquiry.

In the first report, presented to the Lord Lieutenant in April, 1843, it is stated that progress was not so rapid as could have been desired, 'partly because the principles of the measure being very essentially new in Ireland, they required much information to be procured, and much consideration before the mode of applying them could be decided upon; partly, because mistaken or very imperfect views of the bearing of the Act were taken by many;' and because of the number of matters requiring to be regulated at the commencement of such a measure.

The principle of the Act being of 'non-interference by Government,' is then adverted to as that adopted—the provisions being made as 'definite as possible, to the effect that the public in general might have the power of causing it to be enforced, the intervention of the Commissioners being only admitted as an authority for deciding matters that are of a nature varying according to localities or circumstances, and that consequently could not be defined in the Act.' The great pressure of references to them, (such numerous appeals proving the number of cases conceived by the community to require attention,) on those points calling for the Board's decision, is then considered as attributable to the early stage of their control; but it was expected, if the Commissioners can 'come to right conclusions,'\* to make such permanent arrangements, as, *after the first two or three years*, would reduce the business to a few matters, calling for occasional consideration only.

"This," (it is observed,) "it may be presumed, was the ground for confiding the charge to an existing department having other duties, instead of organizing a new Board for the purpose, as

\* An acknowledgment of the difficulties of the subject encountered, requiring practical knowledge to adjust.



would have been required had a principle of more active and minute interference been adopted."

The performance of many duties was imposed in the 'execution of the act.' It is to be apprehended that the policy of the "Suggestions" of 1835 was more regarded than the duties prescribed by Parliament.\* The business of the Fisheries of Ireland, the requirements of their new laws, and their claims for improvement, would assuredly demand more than "occasional consideration."

The report proceeds:—"With respect to the inland or salmon fishery there are still many subjects of contention and differences. The first of these arises from the conflicting interests of the proprietors of the upper rivers and fishermen in general, with those in possession of established salmon weirs in the rivers, or of stake-nets on the coast. Another regards the opposition given to poaching, and other practices proscribed by

\* The following are amongst the duties provided for in the Act:—

Section 13. Inquiry into making of bait beds, and granting license therefor. Section 15. Forming districts for registry of vessels. Section 21. Power to inquire into and abate weirs injurious to navigation. Section 22. Defining mouths of rivers. Sections 32 and 35. Power to inquire into and alter close seasons, every three years, if requisite. Section 39. Licensing stake-weirs to take white fish. Section 42. To require gaps to be made in certain fishing weirs, where there may be claim for compensation. Section 43. Commissioners to assess value. Section 54. Determining length of spur walls to tails of fishing weirs. Section 58. Regulating size, &c., of cruives and boxes in fishing weirs. Section 62. Removal of natural obstructions upon application. Section 63. Approval of plans for emigration of fish in all present and future dams and weirs. Section 67. Alteration of size of meshes on inland rivers upon inquiry. Section 89. The Commissioners or their officers given the executive powers of officers of the navy, coast guard, and water bailiffs, for the enforcement of the law. Section 91. To make and ordain additional regulations and by-laws for the management and improvement of the fisheries generally; for the registry of boats; to alter or vary such by-laws; to make restrictions and regulations for good order as to the times and seasons for taking of all kinds of fish; as to the time and places and manner of using trawls, trammels, other nets, and engines in the sea, their form and description and size of meshes—the prohibition thereof, or of any practice whatsoever, tending, in the opinion of the Commissioners, to impede the taking of fish, or to be in any manner detrimental to the said fisheries, or as to any other matter or thing which shall in any manner whatever relate to the government and protection of the said fisheries. Section 111. To hold general meetings of proprietors of fisheries for inquiry into their state and means of improvement. Section 112. To report annually, furnishing such statistic information as may be practicable, or as directed by the Lord Lieutenant. By the Act of 1844, section 5, Power to suspend oyster fisheries for a fixed period. By the Act of 1845, section 3, Power to suspend the use of and remove illegal nets and weirs in places prohibited. Section 14. To prohibit the use of any engine for capture deemed upon inquiry to be injurious. Section 17. Power to grant license to make private oyster layings. Section 19. Power to grant license to dredge for oysters during close season to supply artificial beds. Section 20. Power to make by-laws for the improvement of the oyster fisheries. By the Act of 1848, section 3, Dividing Ireland into fishery districts, and altering from time to time. Section 13. Sanction as to alteration of license duties. Section 38. To attend and advise at meetings of conservators.

It must be borne in mind that the power of performing most of these important functions is in the Commissioners of Fisheries only, and no other party is authorized by law to perform them.

the law as it now stands, particularly as regards the observance of the close season. The endeavour in framing the Act has evidently been to open the mode of fishing in such manner as to admit of the greatest supply of fish being obtained by the public, while each should be under such partial restrictions as might tend to the preservation and increase of the breed, and enable all those who could reasonably claim the right, to participate in the fishery in a greater degree than they had ever done previously. There was for some a very prevailing impression that it would become the duty\* of this Board to appoint inspectors, and to regulate all the inland fisheries, and very numerous applications for such appointments were received from various quarters, and many requisitions were made on the Commissioners to interfere in the maintenance of the law; explanations were necessary to those requisitions, that the maintenance of the law was now with the public, or with parties interested, and that the only duty of the Board was, in a few specified cases, for reconciling different interests."

It is contended that the Board in this instance took a contracted view of the intent of the measure, clearly providing for a staff of inspectors† to act as in Scotland, and who would, by their actual and unremitted attention to circumstances of a local nature, furnish the executive with such information as would check abuses and promote improvement:—in effect, aid in those matters on behalf of the Crown and the public in which the community might suffer by neglect. For example, so cogent was the power invested by the statute for the repression of *one* serious encroachment on common freedom, as to authorize the Commissioners to declare any stake, weir, or fixed net a nuisance, which should, upon due inquiry, appear in their judgment to be placed in a manner injurious or detrimental to Navigation, and then authorize any person to remove them, *without appeal*.

\* On the passing of the Act an Inspector of Fisheries was appointed, who was also a Commissioner of Drainage; and soon after, an additional inspector, whose time was to be devoted to the Sea Fisheries.

† The second section of the Act provides, "that it shall and may be lawful for the said Commissioners with the consent and approbation of the Commissioners of the Treasury, from time to time to appoint, during pleasure, such and so many persons to be Inspectors of Fisheries, and also such additional clerk or clerks or other officers as may be necessary for the purposes of this Act."

Such local inspectors would perform the duties of seeing that the law was carried out in river fisheries, as to 'queen's shares' in fishing weirs, and the observance of the close time in all descriptions of fishing: giving early intimation of encroachments on public rights, or of apprehended breaches of the peace; report the erection of new mill-dams, in order that the legal passes should be made; attend to the registration of fishing vessels; fulfil the useful purpose of calling the attention of the coast guard and police to the performance of their duties in remote places, and the valuable one of imparting instruction to the coast population ignorant as to the best modes of fishing; and all other important services connected with the Fisheries.



This extraordinary devolvement of authority for the summary abatement of an injury to the community is an evidence of the intent of the Legislature to afford stringent means for protecting all existing interests, and formed the precedent for the summary powers, given by the Act of 1845, to repress certain illegal encroachments on the common right of fishing, not less to be guarded than that of navigation.

The following extract\* from the Report of the Inspecting Commissioners of Fisheries, dated 18th April, 1849, presented to the Select Committee, proves their sense of the difficulties as to the strong judicial powers invested in the Board of Works, as Commissioners of Fisheries.

The Act of 1845, 8 & 9 Vict., cap. 108, reciting that, notwithstanding the provisions of the previous statute with regard to the erection and use of stake-weirs, and other fixed nets, the same were in many instances erected and used in prohibited places, by parties who had no title to do so, empowered the Commissioners, for the protection of public rights, and to prevent disputes, to suspend their use, and remove them, in cases where it shall appear to them that the same are illegally placed; subject to appeal to the judge of assize.†

In the non-exercise of such unusual powers in both these

\* "Section 21 provides that no stake-net shall be placed so as to be injurious to navigation, and empowers the Commissioners to remove them. The Commissioners have not exercised this power, and it may be very questionable whether it is expedient that they should be invested with it, because, with respect to navigation, the Admiralty have ample powers under the common law with reference to it. We believe it quite undisputed, it imposes a very embarrassing duty upon the Commissioners, quite foreign to the question of fisheries, and places them, we think, in a false position, the Legislature having imposed this duty upon them. Strictly speaking they should perform it, and failing to do so, a public department may rest under the imputation of something more than mere neglect; and their having declined to do so in this instance has created difficulty in some prosecutions at common law before judges of assize; for it has been pleaded to juries, by lawyers, that the Commissioners of Fisheries have not considered stake-weirs injurious to navigation, otherwise they would, no doubt, have administered the law, and performed the duties imposed upon them by the Act; and this plausible assumption has had its effect; while we believe the real cause of the Commissioners of Fisheries declining to act has been, that it would involve the prostration of almost all weirs, and render entirely nugatory the whole provisions of the 5 & 6 Vict., purporting to legalize them, in any position almost, within the mouths of harbours, no matter what the breadth of the channel might be."—*Appendix to Report*, 1849.

† INITIATIVE POWERS.—To invest the Commissioners of Fisheries with extra-judicial powers in matters in which questions of title and law may be in the slightest degree involved, while it is unconstitutional in principle, is also highly objectionable. But where no difficulty is found in discriminating between matters of fact and those of a legal nature, and a decision can be accurately arrived at as to illegality, it appears very expedient that executive functions should be given, and actively exercised, for enforcing definite regulations. In this there can be nothing exceptionable, because, in questions purely matters of police, if the line of duty is overstepped, there will be power of appeal to the ordinary tribunals, or to the superior government. The expediency may also be considered of constituting the Fishery Board the medium through which the initiative process of legal proceedings may be conducted, in



cases, where the *least* doubt exists as to the necessity of so doing, the Board must be perfectly justified.

The importance of regulating the condition of mill-dams and fishery weirs is thus strongly laid down in the report. "Upon the due enforcement of the provisions of the act in this respect depends *much of its success* in promoting and *improving* the salmon fisheries, by allowing a certain passage for the free migration of the fish, and by allowing the persons living near the upper parts of rivers some degree of interest in the fisheries, to promote a community of interests between them and those interested in the salmon fisheries on the lower parts of rivers, and along the sea coast, *by which means alone* it appears to us the requisite protection of the breeding fish, during close season, can be secured, and consequently a *system for the progressive improvement* of this fishery *established* on a firm basis."

The Commissioners then observe: "the principle we have adopted, generally, in these cases is that of interfering only upon application made, which is the course specially directed by the Act as regards mill-weirs, and cases where the parties applying are required to deposit the sum requisite for defraying the expenses of any examination; and in most other cases, where the powers of enforcing the provisions of the Act may be exercised by persons interested in the fishery of the locality, it has appeared to us the most suitable course to adopt, as, until complaint or application is made to us, we cannot be aware of the existence of any irregularity."

The extent to which the Irish Fisheries may, with reason, be expected to be capable of improvement, does not appear to have received that practical investigation which its real importance deserves; and, in the absence of such information, vague and exaggerated statements are often put forward, which can but throw discredit and disbelief on the subject in the minds of sober-thinking persons. Faithful Statistic Returns, obtained from proper quarters, such as of the amount of salmon or other fish caught each year,—of rents paid by lessees, and others,—the capital invested in the trade, or the number of persons, boats, and nets, employed in it,—the number and details of prosecutions and of convictions, the amount of fines paid; statements of what has been done, and what may be accomplished, founded on surveys of the extent of fishing banks, of the quantity of spawning grounds, and detailed accounts of the results of

bringing before the proper tribunals for adjudication all matters in which the interests of the public may be involved, when it is remembered that many encroachments on public rights may remain long unquestioned, either from ignorance of the law, from apathy, or if left dependent for redress on individuals who may feel the restraint of personal consideration, or of local influences, the injurious consequences of which to the community at large it is sound and constitutional policy to guard against.

protection, are some of the different *bases* on which to test the true powers of maximum productiveness.

To complete the analysis of the First Report of the Commissioners:—At its close they allude to the 112th clause of the Act, by which they are required to introduce, with the annual reports to the Lord Lieutenant, for the purpose of being laid before each house of Parliament within three weeks after the commencement of each session, such Statistical Account of the fisheries as may be *practicable*, or may be directed by the Lord Lieutenant; this they “understood to be to the extent of *collecting* such information as they can *conveniently*, and not to employ distinct means for the purpose, unless otherwise directed by your Excellency.”

General or sufficient Statistics do not appear to have been furnished, at least to any desirable extent. A more active interpretation of this clause would have led to results already serviceable. The importance of our Fisheries in the scale of the resources of the country would be better understood, and more justly appreciated by statesmen, who are now comparatively uninformed of the attention to which they are really entitled,—while ideas of their capabilities, often exorbitant, might have been reduced within rational limits.

The Second Annual Report, dated 2nd June, 1844, again premises by alluding “to the principle of the Act being that of the least possible Government interference.” The Commissioners (it states) “most readily adopted that principle, being fully impressed with the conviction that it was the only one by which there could be a chance of the Fisheries being established on a basis of permanent progressive improvement. We cannot conceal, however, that disappointment has been created in the minds of many who were anxious for, or felt an interest in the promotion of the Irish fisheries, that a much more general direction and management, accompanied by more detailed regulations, was not undertaken by the Fishery Board.” This exhibits the wish of persons solicitous on the subject, for a more active administration; and they were probably in daily experience of the need of, and impressed with the advantages that would result from it.

“If we felt the propriety of avoiding, as far as possible, minute regulation, we were still much more deeply impressed with the impolicy of a contrary course, when the demand for rules and by-laws involved restrictions on the free modes of taking fish by any engines or devices in the open sea.

“We have been frequently urged to restrain particular modes of fishing, on the plea of their being injurious, whereas, in general, it was their *effective results* and novelty that occasioned the complaints against them; the objections chiefly arising



ing from the competing interests of persons or communities, who had habitually pursued different and probably inferior systems; and occasionally originating in some old established prejudices or assumed peculiar rights.

"These positions will be further explained, and, we trust, the propriety of the view we took justified, in reporting on some particulars of our proceedings.

"We wish the reasons for the extent to which we have declined interference to be understood, because it is one which has drawn upon us some remonstrances, and in which our proceedings seem not to be approved of by many bodies of persons engaged in the Fisheries, and by many most respectable as well as influential personages.

"As an instance of what has been required of us, may be given, an application from a body of gentlemen on a part of the coast, who formed a Society for the meritorious object of preserving order, and assisting the fisheries of the neighbourhood by local encouragement and regulations.

"The desire of the Society was, that we should send down some person connected with our office to co-operate, advise, and assist in their general arrangements.

"We declined to comply with this request, because we considered that gentlemen resident on the spot would be far better judges of what would be necessary, than any officer of ours could be: there could be no difficulty in understanding the law, which is precise, or if otherwise, it is seldom that we or our officers can venture to interpret it; and such a proceeding would lead to a degree of Government interference and responsibility, that we neither considered politic nor in compliance with the purport of the Act.

"Such a precedent, also, being established, would of course have led to similar applications from other quarters, and the Government would have found itself involved in the responsibility, and the employment, perhaps, of all the local arrangements and details of the Fisheries."

This inference, and the deduction, are not very clear.

It is to be hoped that this was the only case of refusal to comply with a very natural request for counsel and instruction; the non-compliance with which must have been disheartening, and is unquestionably not in accordance with the spirit of the enactment, which (in the 111th section) empowers the holding of general Meetings of proprietors of fisheries in any district, for inquiry into the state of the fisheries, "and the best means to be adopted for the regulation, improvement, or protection thereof," thus providing advice and guidance, at the least, to encourage local exertion in a praiseworthy object. As it is not stated that the applicants were not "proprietors of



fisheries," the conclusion is that such could have not been the ground of objection.\*

The Report proceeds to state the *greater difficulties* experienced in framing and carrying out rules and regulations for the protection of the Salmon fisheries than with those of the Coast, "inasmuch as private rights are mixed up with those of the public, and in securing the perfect exercise of the latter, much care is required to prevent any injury, unnecessarily, to individual interests."

The knowledge and use of "efficient means" of fishing is stated to be increasing generally in the bays and estuaries; and that, where the opening of fishing weirs and passages at mill-dams required by the Act are enforced, together with the Sunday cessation from fishing, it was hoped that the interests of the proprietors, in the interior, will be greatly benefited by allowing them an opportunity of taking the seasonable fish, "thereby affording an incentive to all parties to protect the breeding fish and fry in the close season, and on their migration to the sea."

On the question of the Legality of Stake and Fixed Weirs, which had already caused disputes, litigation, and breaches of the peace in some localities, the following remarks are made: "The Act permits the use of these efficient engines, under certain restrictions, along the coast and in wide bays and estuaries, but prohibits their use in any place less than three quarters of a mile in width at low water; saving from such prohibition, by the 23rd section, any stake-nets which have been established in such place for twenty years and upwards; and also by the 24th section, those which have been established within the limits of "several" fisheries for ten years and upwards.

"Under the assumed protection of these sections of the Act, weirs have in some instances been continued in situations where there are reasons to doubt their being legally entitled to the exemption; and in other cases weirs or fixed nets have been erected either in ignorance or evasion of the law, from both of which, serious disputes have arisen.

"In some of these cases where application has been made to us, the parties have, after an examination of the locality, and impartial explanation of the bearing of the Act, by an officer of this Board, voluntarily removed the illegal erections, and otherwise complied with the law, whereby the disputes were terminated; and other modes of fishing being adopted, we are

\* On this head see the evidence of W. J. Ffennell, esq., Inspecting Commissioner, before the select committee, March, 1849, who states he thinks that the state of the Irish fisheries required all that advice which the parties there sought for from the officers of the Board, and that a great deal of good might have been done if such assistance had been afforded to persons seeking to be set right in the way to manage and govern the fisheries.

informed that little if any loss has been sustained by the weir owners, whilst the persons in the interior have derived some advantages which encourage them in the protection of the breeding fish. In other instances, however, the parties erecting the weirs have been less ready to give up the advantages they derived from their use ; and after an examination into the circumstances, we deemed it our duty, in one case, where there were *extensive public Fisheries affected*, and formidable breaches of the peace apprehended, to bring the matter under the consideration of the Government, by whom prosecutions were instituted before the proper local authorities. In the county at one side of the river, (Wexford,) convictions were obtained at the petty sessions court, and confirmed on appeal, at the quarter sessions. In the county on the other side of the river, (Waterford,) the complaint of the Crown was dismissed at petty sessions court, and the dismissal affirmed at the quarter sessions, (contrary, however, to the opinion of the Assistant-Barrister,) although the nature of the offence was the same, and the case was argued and defended, by the same counsel in both counties.

“Notwithstanding the convictions obtained, the illegal weirs were again erected this year, and the result has been that great discontent and dissatisfaction have been created : and we understand that the fishermen have recently *taken the law into their own hands*, and openly prostrated the weirs in the narrow parts of the estuary and tidal parts of the rivers.

“We are not aware that there is any ambiguity as to the real meaning of this part of the Act, and the intention of the Legislature with respect to stake-nets erected in places less than three-fourths of a mile broad ; but as it involves questions of legal construction, and frequently *property of large amount* and value, either to *individuals*, or *large portions* of the *public* exercising the common right of fishing in the tideway, it is of great importance that *the case should be settled* by competent authority.

“The local societies, formed with laudable zeal to protect the fish in their *almost defenceless* breeding places, and otherwise to enforce the provisions of the act, complain that however palpable the necessity for protection, and however strongly urged by the most intelligent and zealous of their acting members, they cannot procure by voluntary subscriptions, sufficient means effectually to carry out this most useful object.”

Suggestions of an assessment Bill, and for powers to be given to the constabulary, are then made, and it is noticed that compensation could not be obtained under the Grand Jury Act for malicious injury done to fishing weirs now legally used, “it having been ruled by the Court, that these kind of weirs were *not recognised as legal* at the time of passing that Act.”



In the session of 1844, the Constabulary were empowered to enforce certain provisions for protection. The services of this force, the right arm of the Law in Ireland, (a body of men of whom we may well be proud, proving what our countrymen become when educated and disciplined,) are of the first consequence for insuring its enforcement with regard to the Inland fisheries.

In August, 1845, power was given to appoint an additional Commissioner of fisheries, to which office one of the two inspectors was promoted, whose vacancy was soon after filled up.

The Third Annual Report is dated 13th May, 1845. In consequence of repeated and urgent applications, a series of meetings were held throughout the country, with the useful objects of inquiry as regarded the Close Season, explaining the practical provisions and policy of the statute, with a view to elicit co-operation in carrying them out, and acquiring statistical and other information. The extracts from this Report may be condensed consistently with exhibiting the matured opinions of the Commissioners as to the best means of improvement. It premises that the salmon fisheries admitted of improvement to an extent far surpassing their present amount of production. With respect to protection, the recent aid of the police and coast guard was expected partly to remedy the want of co-operation among the parties interested, but the necessity for assessment to provide sufficient funds for this purpose is forcibly set forth in the ensuing passages.

“In the great majority of cases, however, the evidence goes to establish the existence of a most unwise and short-sighted course of proceeding on the part of those most interested in the Salmon Fisheries. We allude to the numerous and increasing class of persons who fish with stake-weirs, bag-nets, and draught-nets, on the sea coast, and in the estuaries, (and in some remarkable instances, to the proprietors of great fisheries near the mouths of rivers,) who, from being the parties that derive *by far the largest and first* part of the benefit arising from protection, and in fact, holding the *commercially valuable portion of the fisheries*, ought naturally to be expected to take the most active part in securing protection for the spawning-ground, making passes for the free migration of fish, and enforcing the observance of the weekly close time and the other provisions of the Act, with a view to the improvement of their own property and interests; yet it appears that, almost without exception, they have not contributed in any way to the furtherance of these essential objects.

“The benefit anticipated from the observance of a weekly close-time has stimulated the proprietors on the upper parts of a few rivers in Ireland to form associations for the protection of the fisheries; but having as yet no money value in them, and



being unassisted by the lower proprietors, they have not succeeded in effecting much good. In fact, the very want of co-operation on the part of those most interested, tends to produce, in some cases, rather a hostile feeling, and has led, probably, to the proposal of some of those alterations in the Act to which we have adverted as being at variance with its policy; while it is also this same neglect and want of co-operation, on the part of those fishing on the sea coast and in estuaries, which have caused the urgent demand for some system of assessment."

With regard to the important observance of the Weekly close time,\* it is remarked that "those parties fishing in the sea, estuaries, and lower waters, are wholly inexcusable, who not only neglect to contribute to the protection of the breeding fish, but by open breach or evasion of this part of the law, with palpable injury to their own future interests, *withhold from the upper people* (in whose *power it is to protect or prevent the increase of fish*) any participation in the benefits of the fishery, which the strict observance of the weekly close-time would necessarily give them."

Very few applications had been received for the formation of suitable passages for the Migration of Fish over mill or other artificial weirs, or through natural obstacles, owing chiefly to the difficulty of collecting funds for such purposes from those along the upper parts of rivers, and the total neglect of those on the lower portions, and along the estuaries.

"The formation of such passes are of a nearly equal importance to the observance of the weekly close time; and are essential to the *more equal distribution* of the fish, which, at present, *are taken in unfairly large quantities* by persons having a right to fish below natural or artificial obstructions. Passes for free migration are among the first measures that ought to be effected in every river where such weirs and ob-

\* THE WEEKLY, OR SUNDAY CLOSE TIME.—The object of this regulation, prohibiting fishing by fixed engines or acts on the Sabbath, is chiefly to insure the observance of that day. The select committee of 1836, on the Scottish inland fisheries, strongly recommended it should be strictly enjoined and enforced in the use of all implements for fishing, especially upon the sea coasts of Scotland, where it is appropriately called "*the Saturday's slap-by.*" It has a most beneficial effect in promoting the interests of fisheries, as the free weekly passage of salmon to the upper parts of rivers (where it supplies a week's fishing), by inducing subsequent care, brings back one hundred fold to the lower proprietors. Wherever the Lord's day has not been righteously observed, the fishery of the river will be found to be comparatively unproductive: it is certainly accompanied by violations of the close season, for, where Divine commands are disobeyed, human laws will be little regarded. As enjoined in Holy Writ, the Sabbath is not merely a cessation from labour, but a means of recruiting exhausted nature. Thus the 'Sabbath of years' was to be a year of rest from the land. As a rule emanating from the source of Creation, might not its beneficent spirit, though not its letter, be well applied to the land of Ireland, where the principles of husbandry, in the Saxon significancy of the word, have not been sufficiently acted upon?

stacles exist, as the means of bringing about a nearly uniform system, by allowing of the various migrations of the fish at the times when they are impelled by nature to these movements ; and it is, therefore, the more to be deplored that the parties interested have not afforded to us the means of executing such valuable improvements."

The trials as to the legality of stake-weirs in the estuary of Waterford had ultimated in decisions adverse to their use ; yet some, the title to which, it was stated, depended on similar grounds to those of the condemned weirs, were again erected :—" Upon the representation of an officer of this Board some of these latter were taken down, but others yet remain ; and as the cot-fishermen have been with difficulty restrained from taking the law into their own hands, *it perhaps will be found necessary* to subject these weirs also to indictment, so that the title to maintain them or otherwise may be finally settled. We trust that the result of these trials will lead to the abandonment in other similar localities of weirs not *bonâ fide* protected by the provisions of the 23rd and 24th sections of the Act 5 & 6 Vict., c. 106.

" When once the number of legal or protected weirs is decided upon in each locality, the law will be finally adjusted as regards that district, and thenceforward *easily enforced* against parties attempting to erect new ones."

The Act of 1845 subjected the use of illegal weirs and nets to the same penalties as their erection : summary powers were given to the Commissioners to suspend their use, and remove them in prohibited places : a penalty enacted for their use by persons other than those entitled by law,—and another for re-erecting them, or for their use, each day, where decided to be illegal ; and compensation provided for malicious injury to those lawful. Power was given to prohibit the use of engines injurious to fisheries ; to make oyster beds, and by-laws for the regulation of the oyster fisheries, and the duty on warrants for water bailiffs was lowered, to induce their general appointment.

The Fourth Annual Report is dated 13th May, 1846. A general inquiry into the state of the salmon fisheries throughout Ireland, and especially as to the fitness of the Close Season fixed by law, had been completed. The difficulties embarrassing a satisfactory conclusion on the subject of the close season are hard to adjust. Among other considerations, it requires a practical knowledge of details of ichthyology as to the natural habits of the salmon tribe in their breeding and migration. The Commissioners had been repeatedly urged to depart from the principle of a uniform close season ; after a deliberate and careful investigation, they determined in favour of it.



With regard to the progress of improvement, the Report closes by these observations:—"If in conjunction with a due observance of the limitation (as to angling) above proposed, suitable migration passes be left, even in what are considered the latest rivers in Ireland, and if due protection be afforded during the close season, we confidently predict that in the course of a very few years, the parties really most interested will find, in the improvement of the fisheries, that their advantage has been best consulted in the refusal to accede to the full extent of their demands.

"We further wish to repeat and to impress upon the attention of all parties, that the rivers are the natural nurseries, not merely for the fisheries within their banks and at their mouths, but also *for the public fisheries on the coast*; and that the times to be allowed for fishing therein, must be regulated by a consideration of what is best, on the whole, for the public interests."

A measure of Assessment for the purpose of raising local funds for protection, and for carrying out the provisions for the formation of migration passes, &c., "seeing the total neglect of the parties deriving the largest benefit," is then submitted for the consideration of the Legislature.

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#### NOTES.

**THE CLOSE SEASON.**—The law as it stands at present in this respect is often so different to the natural season of some rivers, that it is not observed by the fishermen, and hardly attempted to be enforced by the magistracy.\*

The natural history of the migration of all Fish is involved in obscurity; but there is believed to be an analogy between the known habits of the salmon and of the herring as to leaving the deep waters and approaching the shores for the purpose of depositing their spawn. These latter appear in some bays of the Irish seas at a later season than in others. It will always be difficult to explain partial and irregular phenomena, but it may be fairly argued that in bays where Fish of the sea tribe appear at a late season, those frequenting rivers may be late

\* A public right of fishery in a great river partakes of the evils which are incident to that of the sea. It appears to be the worst species of 'common,' for while there is an immediate temptation to all to take what they can, the advantages of cessation are too distant to induce unison among the fishermen. They can accomplish little in protection. The owners of property along the banks, where they possess none in the waters, have little interest in interfering, and will hardly take much upon themselves in enforcing the law. A river fishery, thus abused and uncontrolled, is a sort of demoralizing lottery. The uncertainty, the temporary gains, but general distress, and other concomitants, are similar to those of a sea fisherman's calling. Public rights are sacred and inviolable. The laws will become better observed, and the habits of fishermen improve with those of the people.



from similar causes. The salmon is not known in the warmer seas ; it has not been found in the Mediterranean, but is most plentiful in the colder waters of the northern continents. Unlike other sea fish it proceeds up rivers to their shallow sources, to secure the vivification of its young in some favourable place, and it is remarked, that when once it has made a choice, it returns to the same spot again, like the swallow to the building where she before had constructed her nest, and, like that bird of passage, may be said to trust to the protection of man. These fish generally enter inland waters at the time that other animals come together.

In some the 'spring runs' commence in the early months; in others, the 'skulls' of salmon do not come up till May and June. The 'harvest' fish take their name from being most abundant at that period, and their earlier or late ascent may be affected by causes similar to those which accelerate or retard the gathering the fruits of the land. The prevalence of floods, and turbid state of the fresh water, also influence their movements. The ova and melt, as the time of spawning draws nigh, increases in size, and the fish becomes unfit for human consumption. After the operation they are emaciated, and actually unwholesome as food, until recruited in the salt water. To kill them in either of these states is repugnant to the natural law, and during their descent is doubly injurious: they will speedily return in good and valuable condition.

The disadvantages arising from departure from a uniform Close Season in all rivers appear to be out-weighed by the advantages to be gained, (especially in Ireland,) by assimilating the fishing time in contermity, so far as can be ascertained, with the period at which the greatest quantity of saleable fish can be taken; and, the season at which they are unfit for food being that at which they should not be killed, their capture may be permitted up to a late time with less injury than at an early one, regard being had to leaving a sufficiency to sustain the stock.

The law of cessation from fishing has, unfortunately, been little regarded in public inland fisheries in Ireland, and it may certainly be said that it has been less insisted on, because it was considered contrary to that of nature.

The open time is not uniform in the rivers of Scotland, but has been regulated by Acts of Parliament,\* according to the best known periods for fishing. The Acts passed in Ireland, repealed by the new law,

\* With regard to this 'vexed question' the proceedings as to the Scottish salmon fisheries were as follows:—

1825. Mr. Kennedy's Select Committee, in their first and second report, advocated a uniform season.

1828. The enactment called Mr. Home Drummond's Act, fixed a uniform season, save in the Tweed and Solway.

1836. Mr. Patrick Stewart's committee complained of a uniform time, and advocated variation according to the varied circumstances of rivers.

1842. Lord Rosebery's committee sat on the bill for changing the uniform principle to varied periods.

The arguments used in favour of uniformity were, that the contrary gave an increased facility to poaching, and would create some confusion where rivers were contiguous, but it was allowed that some variation might be judicious in particular cases. Some witnesses, on the other hand, advocated a change. The committee reported that the bill should not be proceeded with.

similarly adapted the periods for different rivers to those found by experience to be suitable. In one public river, (the Slaney,) the enactment of 1842 required fishing to cease at the very time when it was most productive, (cutting off three months' customary fishing,) and permitted it to commence at a season when the greater proportion of the article taken was unfit for use.

There is much difficulty in enforcing the law of 'fence-months' rigidly in a common piscary, especially in a country where more than usual obstacles exist to enforce any; but this is increased by the absence of that quality which the law boasts—of being 'the perfection of reason.' It is also desirable that the open time, as one of employment, should be definite and remunerative, and embrace the most profitable period. The existing regulations to cessation from, or permission for, fishing, is regarded by the fishermen of some rivers, (in which the temperature of the water, its clearness, or some hidden cause, renders the ingress of salmon later than in others,) much in the light that an act would be—which prescribed that corn should be cut in the three kingdoms on the same day, without reference to powers of heat to ripen it, and which forbade it to be reaped when ripe, but allowed it to be cut when green. In this case the motto in the title-page of this essay is particularly appropriate.

It is probable that the profitable season may become earlier by being closed at an earlier time, and of course premature closing will leave more fish to breed, and both effects are much to be wished.

Although the principle of Uniformity is very desirable to be upheld on several grounds, the unanimous voice of the country against it, and the dissatisfaction prevailing throughout Ireland upon the subject, likely to lead to disastrous consequences to the river fisheries, makes it untenable. The principle of unqualified uniformity was negatived by the very first statute, power being given to the commissioners to alter the close season, when expedient, and additional facilities for variation have been afforded by those following it.

The law may place all rivers in a Procrustean bed, but where it is opposed to the sense of all classes, the effects are that it is either disregarded, or quoted as an instance of ignorant legislation or control. Where an alteration is called for by the community interested in the fishery of a river it should be conceded: they must be practically good judges of the fittest season, and if an error is committed, they are the sufferers, and there is power to rectify it. Would it not be better to make some sacrifice (if it is one) to prejudice, and to alter the free time for a short period, for the sake of securing that good sense and co-operation which will always prove the surest means for the improvement of salmon fisheries?

It is to be hoped that a series of experiments will be carefully made in debatable rivers as to the condition of the breeding fish, by examining the state and size of the roe and melt at various times, and recording other circumstances. A collation of facts will enable the Commissioners to judge how far applications for alteration are well grounded and reasonable. When such statements are laid before them by local boards of conservators, it may be trusted that the accompanying representations will be duly considered.



**VIOLENCE OF THE FISHERMEN.**—After the passing of the Act of 1842, the erection of numerous weirs, illegal under its provisions, took place. The Crown did not institute proceedings against them until the violence of the public fishermen, whose livelihood was ruined, aroused attention to the need for interference.

Among the meshes of an Act of Parliament many a knot will be but loosely tied, or they may be broken through by powerful means, by great voracious fishes, as large flies burst the web in which lesser ones are caught. The wording of a clause may be so vague that the Act it proposed to defeat cannot be prevented, or the use of a word of doubtful interpretation may occasion a protracted suit. Impatient of the 'law's delay,' the fishermen in some instances made an appeal to the higher court in which Judge Lynch presides, and redressed their grievances by 'the strong arm' in the manner so graphically described by the pen of Sir Walter Scott.\*

Though far from intending to justify such proceedings, which must always be deprecated not only on account of their intrinsic evils, but on the wider grounds of the injury reflected by acts of violence on the country at large; it would seem on inquiry into one case in which the cot-men took the law into their own hands that there were many circumstances to extenuate the act.

A great stake-weir had been erected at Passage, the gorge of the Waterford estuary, by a tenant of the Marquis of Waterford. The information laid against it by order of Government was dismissed by the Waterford magistrates. The appeal to quarter sessions was also dismissed by them, although the assistant barrister gave his opinion decidedly against its legality. The cot-men expressed their gratitude for this interference of the Crown, (in a difficult point of law between rich and poor,) in trying a question of public right. But finding the

\* An attack of the Solway fishermen on the weirs of 'Quaker Geddes,' one of the partners of a 'tide-net fishing company' is introduced in the Scotch novel of 'Redgauntlet.' In the scene between the placid partner and the fierce 'laird of the Solway,' the latter thus addresses the innovator: "I tell you in fair terms, Joshua Geddes, that you and your partners are using unlawful craft to destroy the fish in the Solway, by stake-nets and weirs; and that we, who fish fairly, and like men, as our fathers did, have daily and yearly less sport and less profit. . . . You will destroy the salmon which make the livelihood of fifty poor families, and then wipe your mouth, and go to make a speech at a meeting." At a dinner-party in Edinburgh, this conversation ensues: "You must have heard that the fishermen at Brokenburn, and higher up the Solway, have made a raid upon Quaker Geddes's stake-nets, and levelled all to the sands?"—"In troth I heard it, Provost, and I was glad to hear that the scoundrels had so much pluck left, as to right themselves against a fashion which would make the upper heritors a sort of clocking hens, to hatch the fish that the folks below them were to catch and eat."

The introduction of these inventions into the romance was a pardonable anachronism; its author was too much a noticer of 'manners as they rise,' and a true Scottishman, not to seize such a theme for his pen, and not to bristle up against invasion in any shape, and fight manfully under the national motto of *nemo me impune lacessit*. His letters under the '*nom de guerre*' of Malachi Malagrowther, successful in repelling an injury to the currency of Scotland, are celebrated. 'Redgauntlet' was written in 1824, when his residence as an 'upper heritor' on the Tweed may have made him sensitive as to performing the function of an incubator. The same year a select committee was appointed to inquire into the state of the salmon fisheries of Scotland.



weir still maintained, they proceeded in a body down the river in March, 1844, and destroyed not only the obnoxious weir, but several others.\* The great weir was re-erected in 1847, and quietly cut down by large numbers of the fishermen.† The cot-men of Limerick also prostrated several weirs in the estuary of the Shannon. The statute

\* Extract of a letter from the secretary of the Board of Works to the under secretary for Ireland, relating to a memorial of the Marquis of Waterford to the Treasury, May, 1844, *Appendix to Report*, 1849, p. 59:—

“In 1842, after the passing of the new Act, the memorialist states that he demised this fishery to tenants who proceeded in 1843, to re-erect the weir under the assumed title conferred by old possession, and the exemption above alluded to.

“The cot-men, a very numerous and poor class of fishermen of the higher part of the river, felt themselves much aggrieved by this re-occupation, more particularly, as by the recent Act it was decided to be an injurious possession as against the public, and only to be justified by such established usage as was considered reasonably to confer the right of property, and it was notorious that threats were held out of a determination to proceed in a body on the part of the cot-men, and endeavour to prostrate this and other weirs by force; under these circumstances the Irish government was induced to make an exception to the usual course, and to proceed to try the question as one of public right, in order to prevent such violent breaches of the peace as might have occurred, one of the parties being a numerous body, but in a station quite unable to try the question by ordinary legal forms. An information was laid consequently by rule of government, before a bench of magistrates, against the weir in May, 1843, and dismissed, as stated by the memorialist. And on an appeal to the general quarter session in July, 1843, again dismissed; but it is not stated that in this last case the decision of the magistrates was in direct opposition to the charge of the presiding assistant barrister, who gave, at considerable length, his opinion decidedly against the legality of the weir: a printed copy of his charge is enclosed. It appears by the memorial, that proceedings were then taken against the weir, as injurious to navigation, without success. This board is not aware under what advice, as the commissioners do not perceive that objections can be taken to it, on that account. The decisions of the magistrates do not appear to be by any means satisfactory, being contrary to the decided opinion of the legal authority appointed with them.

“Hitherto the cot-men remained quiescent, and felt grateful to the government for its protection, and this proof of the error of a prevailing popular feeling among the lower orders in Ireland, that the effect of the laws were usually for the protection of the rich, and against the poor, made much impression; finding, however, that the weir was still maintained, and that others on the county Wexford side (with rather strong claims to the title) but which had been convicted, both at petty sessions and quarter sessions in that county, were notwithstanding again erected by Lord Templemore, and about to obtain the full benefits of the coming fishing season, to their great injury, they proceeded in a body, as stated, in March last, and destroyed the weirs again, since when Lord Waterford’s weir has been re-established, or is about to be, under the protection of a man-of-war and the police.

“The memorialist very fairly professes a willingness to submit his claim and title to any proper investigation, and the board are of opinion that such would be a very proper course if it can be brought fairly before a competent tribunal; but they are not prepared to say whether the manner suggested by memorialist of an action to be brought by an individual proprietor of a fishery higher up the river would be a fair way of trying this question of public right; but that is a matter for the consideration of the legal authorities.”

† Extract from Mr. Barry’s Report, 31 May, 1847:—

“The great spit-weir at Passage, which has been pronounced illegal, and removed by the owner, Mr. Dobbyn, was re-erected by that gentleman at the commencement of this season, but it was not allowed to remain long; the cot-men came down in large numbers from the Suir and Barrow, and very quietly cut it, and another decidedly illegal weir, belonging to Mr. Meade, down. This

of Henry VIII., prohibiting 'weirs, mill-dams, engines, straites, purprestures, and other like obstacles,' on the four rivers discharging themselves into the Waterford estuary, imposed a penalty of ten shillings on any person refusing to accompany the sheriff and *posse comitatus*, to aid in prostrating the same. The Act 5 & 6 Victoria, only repeals so much of that statute as relates to the destroying of salmon fry, leaving the law for prostration still in force. It is not supposed that these men acted on a tradition of this old law, but there is a later statute authorizing a peaceable abatement of illegal weirs, and which was sometimes acted upon prior to its recent repeal. The often quoted Act of 10 Charles I., declared standing nets unlawful. By the common law of the land any aggrieved person may, without riot or affray, abate a nuisance.\* The right to do so was recognised by 26 George III., c. 50, enacting that if any person shall unlawfully erect or keep up *any* weir upon any river in Ireland, a notice shall be served on the proprietor, or occupier, or known agent; and, if continued after judgment given against it for seven days, it shall be lawful for any persons to prostrate the same.

The costs and expenses of prosecutions in the Waterford estuary alone from the year 1842 to the 12th February, 1849, in indicting parties for erecting illegal stake-weirs, amounted in fees to the clerk of the Crown, to £63 19s. 6d.; to counsel, £319 13s. 3d.; and expenses of witnesses, £309 15s.; total, £693 7s. 9d.: making an average cost of £100 a year, and the Crown still remaining unsuccessful in repressing them. This expense even deterred the Government from proceeding. Much doubt was also entertained how to frame or sustain an action.

A number of the cot-men were prosecuted. Judge Perrin, in his charge, announced that their proceedings were illegal; that even if a certain weir was unlawful they had no right to abate it. He continued: 'Be assured that the law is strong enough to support your rights, and that the strongest support you can have will be found in the law and its officers, and you will only endanger your rights by endeavouring to enforce them by violence. If these weirs are illegal, it is the duty of

resort to such means of enforcing the law is highly dangerous, and it is hard to say which is more culpable, the individual who dares the law by an illegal erection, after a solemn conviction, or those who, finding that they cannot get legal redress, take the law into their own hands; a great deal of excitement prevails here on the subject. It is rumoured that the cot-men intend to sweep the whole river of the weirs; armed bodies of men are watching their approach, and it is believed that blood will be spilt. The tenants of Mr. Power, of Faithlegg, have been for some days armed, and determined to fire upon the cot-men. When a gentleman of Mr. Power's position, and Mr. Dobbyn, the sub-sheriff of the county, sanction such proceedings, it would seem to be high time for the government authorities to interfere for the prevention of outrage."—*Appendix*, 1849, p. 81.

\* Baron Pennefather—in case of the *Queen v. P. W. Power*, in an indictment for a nuisance to the public right of fishery in a tidal part of the river Suir, by the erection of a Scotch or stake-weir, gave this judgment:—

'This weir is to be justified at common law. Taking into consideration the words of Magna Charta, 12 Edw. IV., and the dictum in *Weld v. Hornby*, I am bound to say that the erection of this weir is illegal at common law, as tending to the injury of the public right of fishery. I think it is prohibited by Magna Charta, and think it is an illegal weir. Whether it be "established" or not, within the 23rd section of the Act, is of no consequence, as I am of opinion that it is an illegal weir.'—*Select Com. Appendix*, 1849, p. 34.



those concerned for the Crown to prosecute them, and to abate by legal process.'

Counsellor Alcock, (Evidence, p. 488,) after quoting this opinion, gives additional authorities as to the repression of public injuries, and states, 'now so far as the injury to the public fishery is concerned, if this weir takes fish, assuming it is an illegal mode of proceeding, it is not a question which these cot-men can try in this shape; it is a public injury which can only be redressed by indictment,' yet (at page 454) he had previously exhibited the difficulties of laying such an indictment, and (at page 490) states, 'I think they must leave it to an indictment, *if an indictment is maintainable at all.*'

In the words of Judge Perrin, 'it is difficult and dangerous to define the right to abate a nuisance; but it is also dangerous to allow a multitude of men, relying upon their own views of the law, to proceed to assert their rights in this manner.'

It is to be hoped that sufficient powers will be given by the legislature to prosecute illegal weirs, and that the lower classes will not again resort to these means. Such acts of violence are greatly to be reprehended, and add unhappily to that ill character from which this country seriously suffers, and which a long continuance of peaceable conduct can only remove.

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## CHAPTER VII.

### MANAGEMENT UNDER THE BOARD OF WORKS.

THE immense pressure on the Board of Public Works during the famine of 1847 prevented them from furnishing a Report for that year. The sixteenth annual report, dated July, 1848, containing a special report on the Fisheries, combines the years 1847 and 1848. The 'General Observations' contained in this report, exhibit the remarkable manner in which the Sea Fisheries of Ireland were affected and suffered by the distress of the two previous years. The market was greatly diminished by the impoverishment of the bulk of the people, with whom, fish being only an accessory food, it took all their means to buy the more necessary kinds.

The remarks of the Commissioners are valuable, and their conclusions deserving of attention, as to the advantages of developing and relying upon our Sea Fisheries as a source of industry and trade, as well as a means of sustenance. In order to direct the exertions of private enterprise to the formation of a fishing trade, the proposal of the Commissioners to organize a few fish-curing stations on the western coasts as an example, was adopted by Government, and the sum of £5,000, (advanced by the Reproductive Loan Society,) was applied to that purpose.

To revert to the Salmon Fisheries. The decreased produce of the year 1847 is attributed by the Board as owing, not to the



imperfection of the law, but to its too frequent infringement in the almost total neglect of the observance of the close season, and of protection to the breeding fish, and the fry.\* But may it not be reasonably argued that the constitution of the law is the primary fault, if it permits such a distribution of the property in Fish as will tend to create this negligence? That such apathy will not occur where there is adequate interest, is known by the results in private fisheries. It needs a high sense of duty, a transcendentalism of principle, to preserve an indistinct species of property for the use of others, or for the pure motive of serving the community. To create such a state of public feeling is of the highest consequence; but in its absence, surer means for arriving at beneficial results should be given.

In an endeavour of the present kind, to trace progress, it is impossible to avoid repetition; but time is not ill-bestowed in laying before the public the process by which useful measures have been framed and introduced.

The absence of protection of the breeding fish, and of the due enforcement of the provisions of the law, having occasioned urgent demands for the organization of a system with a suitable force, and it having been found that the constabulary and coast guard could not assist as actively as was required, the measure of Assessment to provide a fund for paying a suitable fishery police, was again strongly advised; and for this reason, that "in Ireland, where so very large a proportion of the Salmon Fisheries is public property, and of which the public avail themselves by common law right, a sufficient amount of interest is to be found vested in but few individuals, to justify their incurring the whole expense of protection. Nor is there

\* PROTECTION.—As on the number of fish that deposit their spawn, the security with which the roe is preserved, and the fry protected in their descent to the sea, will depend the 'Harvest of a Fishery,' care should be chiefly directed to these points.

The penalties enacted against breaches of the close season in Scotland are higher than for Ireland; while, considering the incentives to the offence, they require to be comparatively higher in this country, where the prevalence of destitution often leads men to commit such breaches of the law as will provide them lodging and food in a gaol.

All reasonable measures that would secure a more efficient protection to Irish Inland Fisheries, might be considered as effecting a saving of resources, and as a check upon crime.

In some cases of penalties, adding the gain of violating the law to the improbability of detection, and the prospect of leniency on the part of the bench, they do not appear to have been sufficient to deter offences. Nominal fines, or imprisonment for a short time, are often imposed.

The wild habits of the Irish peasantry in the unfrequented recesses of the country incline them to the 'sport' of spearing. The lawlessness and excitement of poaching enters into the passions of human nature. Sir Walter Scott has described in 'Guy Mannering,' with his usual felicity, the exciting amusement of 'burning a river.'

A conciliatory system on the part of all concerned will be generally found the most beneficial means of conservation.

any case in which it is just that the whole expense should be paid by those parties; whilst perhaps, as it often happens, those who, in the exercise of the common-law right, receive the largest proportion of benefit, and the first fruits of protection, are yet not bound to contribute towards that protection." The Board considered that the difficulties as to assessment should be overlooked, "when the great value and capabilities of these fisheries are considered, when the necessity for developing all such resources in this country is fully admitted, and whilst we are prepared to add our testimony, that without some adequate system of protection, these fisheries are sensibly deteriorating."

The want of funds to make passages for migration over mill-dams, and to remove natural obstructions,\* and the erection of illegal stake-weirs, in some cases destroyed by violence, is again alluded to.

#### SEA FISHERIES.

The Seventeenth Report of the Board of Works, dated May, 1849, commences with a statement of the experience formed, and views entertained, as to the permanent improvement of this section of the present inquiry. Containing much that is most deserving of attention, it may be given *in extenso*—some remarks being at the same time offered on a few points.

"In our last annual report we referred to some of the effects of the famine upon the Fisheries of Ireland, particularly those of the west coast. We also adverted to the numerous efforts made by benevolent societies, and to the course which, with very small means placed at our disposal, we adopted to stop or turn aside the tide of destitution that threatened to destroy all the existing means of fishing, and that spirit of industry without which no fishery can succeed."

That spirit had been most unfortunately affected by the vast employment of the people by Government under the Labour Rate Acts, when the average number relieved by daily labour, from October, 1846, to June, 1847, was 356,000 men, the host at one time amounting to more than 700,000 persons. The defects of this sudden and irregular effort sink out of sight when the magnitude of the evil to be met, and the generosity

\* The Obstructions to the migration of fish throughout the rivers of Ireland are manifold, both artificial and natural; the former greatly predominating in amount. The numerous mill-dams present formidable barriers, which cannot be surmounted by fish heavy with roe except in time of floods; and while detained below, they are an easy prey to the neighbourhood. The extent of produce evidently must chiefly depend on the accessible area of spawning ground. Unless obstructions can be overcome, a vast extent of field, cut off by them, will remain unfructified and unprofitable—the salmon being unable to reach places where, even if unprotected, a great number will escape destruction, and their young come to perfection—floods favouring their escape. Getting fish up to the spawning beds is the cardinal point to aim at.



of the British Government and of the Irish proprietary in providing for it, are considered.

“ Previous to this visitation, we had observed, as detailed in our annual reports, the symptoms of a growing prosperity, and a tendency to the development of individual enterprise and industry in the Sea Fisheries, progressing with the physical improvement of the country in other matters, and accompanying, if not consequent upon, the removal of all unnecessary restrictions and detailed interference\* in the trade. But perhaps no trade or pursuit is more susceptible of depressing influences than these fisheries, from the variable nature of the demand, and the numerous direct risks to which it is liable. With none it is more dangerous to tamper by direct protective duties, bounties, or adventitious aid, and minute Government interference; whilst, for the very same reasons, none requires more encouragement, more support from the parties locally interested, and the diffusion of sound practical education in all ways in which it can be legitimately given.

“ If these observations be admitted as generally applicable, they appear to us peculiarly so with regard to Ireland, where, on the advent of the famine, scarcely a curing establishment existed in the island; and though surrounded with seas abounding in fish, this country still imported the great bulk of its cured fish from Scotland, Newfoundland, and other places:—where, in fact, the fisheries, being settled on no sound commercial basis, were in the first instance threatened with annihilation on the west and south coasts—the people deserting their boats and the trade in masses; pawning their fishing gear in despair of obtaining adequate markets for the produce of their industry; and availing themselves of every other less hazardous or more direct and effective means of procuring food to sustain their bare existence.”

On the above passage it may be observed, that the remark as to Fisheries being settled on no sound basis applies to this Country, though reading as if applicable to Scotland, &c. It may be suggested, that if a similar amount of aid expended in supporting the trade there, were allotted to further its establishment in Ireland, favourable results might be produced, which would enable her to compete successfully in her own markets, where a demand existed even during the famine, and was not supplied by native industry. It certainly appears, that *although* Government measures were withdrawn, and advantageously according to the views put forth, little was accomplished in the

\* The nature and extent of the restrictions and interference that existed previously is not mentioned; nor could they exist when there was no Board since 1830.

direction of private enterprise, scarcely one curing station having been set up before 1845.

“ We regret that from the unsatisfactory state of the Registry (arising from causes hereinafter adverted to), we cannot show with accuracy, in figures, the full results of these depressing causes, at least to the extent which our personal observations, and those of our officers in various departments, lead us to believe have arisen; but dealing even with the totals of the registry for the whole of Ireland, some idea of the state of facts may be formed from the following abstract, showing the number of vessels, men and boys, engaged in these fisheries at different periods :—

	1830. Fisheries under stimulus of Bounties and Loan Funds.	1836. Fisheries under depression by previous withdrawal of Bounties.	1844. Fisheries carried on In- dependently.	1845. Before the Famine.	1846. Since the Famine.
Number of Vessels and Boats of all classes, . }	13,119	10,761	17,955	19,883	15,932
Number of Men and Boys employed, . }	64,771	54,119	84,708	93,073	70,011

“ Thus it would appear, that more than 3,900 first and second class fishing boats, with 23,000 men and boys, and the families supported by them, have been withdrawn from the trade since 1845. We are disposed to consider this *under the mark*; but when it is borne in mind that the great reduction has inevitably taken place in the distressed districts of the western parts of the island—the fisheries on the east having been little, if at all, injuriously affected—the magnitude of the evil in the destruction of so much industrial occupation, and the *necessity for adequate remedies*, will be more apparent.”

The causes from which the correctness of the Registry—from whence the tabular estimate was derived—may be doubted, are subsequently given. It would appear that the Registry does not show the number of boats withdrawn; and, that from the licenses not having been cancelled from the commencement, the numbers appeared to increase from 1844 to 1845, though in reality they are believed not to have done so.

The recent melancholy loss of life and fishing property on the east coast of Scotland has directed the anxious attention of Government towards measures to prevent it for the future; and we may hope that the far greater deprivations which have been sustained in Ireland will continue to arouse similar efforts in a beneficial direction.

“ Acting on the principles we have adverted to, with a full knowledge of the history of the fisheries of this country, and of the threatened evils which, to those acquainted with the



West of Ireland, appeared as certain results of the blight of the potato crop, we proposed, for the sanction of Government, liberal aid in the establishment of piers, harbours, and roads of approach, as a legitimate direct aid to the fisheries; and the temporary formation of curing stations, as examples for the trader, a pioneering of his way; and as educational establishments, not only for the fishermen, but the gentry and people of the adjacent country. We are happy to be enabled to report, that the results which have even already, and under the most unfavourable circumstances, arisen, confirm us in the propriety of the policy recommended, and lead us to hope, that amidst the deepest affliction which perhaps ever visited any country, the foundation has at length been laid for the establishment of the Sea Fisheries on something like a permanent and sound commercial basis.\*

“The particulars of the course pursued by us, the instructions for the establishment of the stations, some of the results, and many interesting facts reported by our officers, with the praiseworthy, well-directed, and benevolent exertions of the Society of Friends, both in aid of our stations and in other places round the coast, are detailed in our last Annual Report, to which, and its Appendix, we beg to direct attention; and we subjoin a further statement of the results, and an account of our proceedings so far as we have been able to wind up the same.

“We feel that it is rather our duty and province to report facts, than make propositions with regard to the department of the public service intrusted to our charge. But at the present crisis of affairs in the West of Ireland, when attention is naturally turned to this important and valuable source of employment, and when propositions of various kinds are being made to promote it, (some of which have from time to time been pressed on our consideration,) we feel it may not be out of place to record the opinions which a careful continuous study of the subject has led us to form, which experience has confirmed, and in which we are sustained by the opinion of the Commissioners of Inquiry into the Irish Fisheries in 1836, so far as the different circumstances of the country then and now admit of comparison.”

\* An extraordinary service was done in breaking down the combination of the purchasers in Dublin, by opening other stores to sell the cured fish in, and extending the sale into other towns. “We entertain no doubt that the performance of this anomalous duty by a Public Board has done much good.” It is added—if, in addition to increased facilities of carriage, “any existing prohibitory duties in foreign countries, or laws affecting our commerce in this article with them, can be removed, whereby a new, vigorous, and wholesome stimulus can be given to this trade at the present crisis, we cannot point to a more natural and valuable field for enterprise, and the revival of self-supporting industry, than that afforded by the fisheries of the whole western and southern coast of Ireland, if steadily and judiciously followed.”—Page 53.

Under this latter consideration, the entire Recommendations of 1836, (see Chap. XII.,) would seem to deserve further attention than the Board, as it will appear, deems them entitled to. It might also be imagined that, from the same motive, even fuller and more defined means of encouragement would be desirable than were thought expedient or advantageous at that period.

“There is, as has been frequently reported, in many places a want of suitable boats, fishing gear, and boat tackle; in others, a want of suitable habitations and other convenient buildings for the fishermen; both of which deficiencies militate against the productiveness of the adjacent fisheries; and well-intentioned persons, with laudable zeal, seeing the deficiency, propose now, as has often been done before, that Government should interpose and apply a remedy. We, on the contrary, regard these as “effects,” not “causes;” as suitable objects for the exercise of private enterprise, local assistance, or even, in some instances, of that of benevolent societies. But from experience, we look upon the direct interposition of the Government, or a Government Board, in such matters of detail, as directly injurious to the trade.”

There can be no doubt of the soundness of this opinion with respect to *direct* interposition, but by certain *indirect* methods, many matters of much service in promoting the success of the fishermen might be arrived at, as it will be endeavoured to be shown. For example, the custom of repairing poor men's boats in Scotland, (see remarks in Appendix,) is equally applicable and useful to the wants of our fishermen.

“It appears to us, that the Sea Fisheries are likely to derive more benefit from measures directly intended to benefit other interests, than from almost any measures of direct interference with these fisheries.

“With a view to the permanent improvement of the fisheries, and exclusive of the exceptional cases of existing famine, we would propose that direct Government interference be confined—

“1st. To the maintenance of peace and order among the fishermen, and matters immediately connected therewith.

“2ndly. To the provision of suitable public accommodation and protection, by harbours, landing-places, and roads for the persons engaged in the trade; and,

“3rdly. To any assistance which can be given through existing establishments, to promote practical education in the habits, modes of capture, and curing of fish.”

Of these three points of suggestion, the first-mentioned is a primary duty; the second has always been recognised as one in which aid from the public purse is required according to the necessities of each case. The last, therefore, is the only one in which any interposition not hitherto acknowledged is advised.



The Government curing-houses were disposed of to private persons. No definite method of assistance to promote education is proposed, nor to meet 'exceptional cases of existing famine.'

"We admit," (the Report continues,) "that of themselves these will effect but little for the immediate object. The great want is, and the great stimulus to the trade must ever be, the steady daily market, or sound (not fictitious) demand, and a remunerating price. These attained, boats, gear, tackle, and comfortable habitations, will soon be found; and self-interest will powerfully aid education to banish ignorance and prejudice, which are now rather unwisely charged as causes of deficient fisheries.

"For the accomplishment of these great objects, and consequent means of self-support, in the distressed sea-coast districts of the western part of Ireland, we have long looked to—

"1st. The early extension of railways into the centre of these districts, the extension of steam navigation, and the promotion of other means of communication to the remote parts of the coast, whereby facilities and cheapness of carriage being established, the demand would be increased in quantity, and the price raised to a remunerative scale.

"2ndly. The establishment by private enterprise, of curing stations, whereby a daily local market would be founded close to the fishing grounds, with its innumerable concomitant advantages; and,

"3rdly. The removal of all legal disabilities affecting land or agriculture, whereby local wealth and enterprise being unshackled, may be free to aid such industrial speculations as the fisheries; and the general means of these districts being improved, their value as local markets for the produce of the adjacent fisheries may be increased with mutual advantage to both.

"These are the general principles upon, and means by which, we expect to see the sea-coast fisheries of Ireland brought to the prosperous and remunerative condition of which we feel assured they are naturally capable; and we believe that any less extensive means, or any more direct interference on the part of the Government or its officers, would only end in disappointment."

The truth is self-evident, that the full prosperity of Sea Fisheries must wait upon those great means and measures by which a Country will be generally advanced. But while looking to such, let it be hoped that minor appliances will not be overlooked.

The Commissioners of Public Works, in their 'General Remarks on the Sea Coast and Inland Fisheries,' proceed to

vindicate their system as pursued in this department, as being in accordance with good policy.

“In concluding our Report on the Sea, and introducing the subject of the Inland Fisheries, we feel it a duty, in the present critical state of affairs in Ireland, when the subject of promoting these important sources of industrial occupation will be naturally much considered, to point attention to the principles of the Act 5 & 6 Vic., cap. 106, which repealed all previous Fishery Acts, and after long consideration and discussion in both Houses of Parliament, laid the basis of a uniform policy and settlement of the Fishery Laws. We also earnestly solicit attention to the four annual reports of this Board, made previous to the famine; to our monthly reports during its first pressure, and to our last and present annual report, as containing very fully the results of our experience, and the opinions which years of anxious study of the whole question have formed.

“We are quite aware of the disappointment which will be felt, and the dissatisfaction often openly expressed against a public board that declines to accede to or recommend some of the various projects which the emergency of the moment, praiseworthy zeal, limited experience, or personal interests, so often and so plausibly urge for adoption, as a sudden means of raising from a state of depression to one of prosperity the fisheries of the country. But, impressed as we are with the conviction that our paramount duty is to promote steady progress, the *ultimate success* of the fisheries, and the *annual increase of the quantity of good fish taken for consumption*, we feel that as long as we are charged by Parliament with the administration of these laws, we are bound to act upon this policy; and we have, on so many occasions, found the admitted advantage of acting on our own principles, rather than yield to the urgency of claims for interference, preferred with the greatest plausibility, and even evidence of the parties feeling themselves satisfied with the truth of their position, that we are encouraged to persevere in the course hitherto adopted.”

An extract then follows from the first annual report. “We have thus placed upon record, by the Commissioners, immediately after the passing of the Act, the principles by which they understood they were to be guided, and which we believe were sanctioned by the Government; whilst the best test is afforded that no greater amount of interference on our part was sanctioned by your Lordships, (the Lords of the Treasury,) in the fact that no pecuniary means have been placed at the disposal of the Board for the purpose; nor have we ever received instructions to act upon any other policy.”

The question arises here, whether the views of a Ministry, prior to legislation, have been correctly interpreted by those



commissioned to administer certain laws, and to perform duties prescribed by an Act of Parliament? And again, how far such views are to prevail over the apparent attention of the Legislature to provide adequate means for their administration? It was surely not to be expected that additional pecuniary means would be accorded, unless representations of the need for them were made by the authorities, who would be cognizant of the requirements of the service? On this head may be referred to, the frequent *allusions* in the yearly reports, to the smallness of the means at the disposal of the Board, and to the want of funds to make queen's shares and passes in rivers on which the success of the new regulations as to Salmon fisheries depended, a want that will long remain unsupplied unless other means than those at present available are afforded. The sum allowed for the staff and Government expenses of the Irish Fishery department has already been placed in contrast to that allotted to the improvement and control of the Sea fisheries only of Scotland. Whether a similar sum could be advantageously employed for the development of these resources of both description in Ireland, is worthy of consideration.

The Commissioners continue: "Our experience since the passing of these Acts enables us distinctly to report in favour of the policy and line of action thus laid down. We believe that any other would only end in disappointment, and a further postponement of the ultimate prosperity of the fisheries. With reference to the sea fisheries, we have already fully expressed our opinions; and in respect to the salmon and inland fisheries, we submit that it never was contemplated that this Board should initiate proceedings and enforce the law in every river or stream of the country; nor can we conceive any course more calculated to check self-reliance, and retard indefinitely the due performance of magisterial, local, and individual public duties, than relieving localities from the responsibility of watching over their own interests, and duly enforcing the common law and legislative regulations made for their benefit."

So zealous and almost ubiquitous a course of action was certainly not to be expected, but even a desirable *medium* was unattained.

The two reports of the Inspecting Commissioners of Fisheries, published by the Select Committee of last session, dated 18th and 21st April, 1849, may be referred to in the Appendix. The first is on the government of the salmon fisheries, and the state of the laws affecting them; the latter is addressed to the Board of Public Works, with whom they are associated as joint Commissioners of the Fishery department. The observations and suggestions they contain as to means of improvement are worthy of attention, as emanating from officers who have given

their energies and practical knowledge for many years to the subject.

The Act constituting Boards of Conservators is then quoted, as founded on the principle that local duties should be performed by local parties, and that if found practically operative, it will, in respect of the salmon fisheries, properly limit the duties of the Board to those of a judicial or administrative class, involved in the occasional consideration and passing of a by-law, and the performance of professional or engineering duties, in sanctioning works for the migration of fish, and other judicial or administrative acts which they are empowered to perform, upon being duly moved thereto, and funds provided therefor.

"Whilst the Inland fisheries of Ireland are naturally capable of great extension in value, and will, in many districts, have great benefit conferred on them by the progress of arterial drainage, with its consequent facilities for migration, there is so great a want of co-operation, such a clashing and violent opposition of interest, private rights and class distinctions, and, withal, so much want of sound information on the subject, that we regret to see the struggle of parties, and personal or local interest, too often, of late, absorb the attention and take the place of the sound commercial principle on which the Act 5 and 6 Vic., cap. 106, was founded.

"This Act, whilst it provided, as a matter of police, regulations for the guidance of different modes of fishing, aimed mainly at the increase of the quantity of fish, by stringent provisions for close time, and protection in breeding; and contemplated, irrespective of parties or classes, the capture of the largest quantities of fish in the best condition, during the open season, consistently with the increase of the species.

"The departure from this principle is the more to be regretted in Ireland, where so large a proportion of the salmon and trout fishery is, by law, public property, and where any source of industry necessarily requires all the just liberty of action it can obtain."

The legalization and increased use of Stationary Apparatus was granted by the Enactment on the grounds, that on the sea coasts and in estuaries the changes of the tide become the substitutes for human labour, and enable suitable engines to rescue fish, which are swimming along their boundaries in the healthiest and fattest condition, from the jaws of seals and porpoises, and make them "a feast for our citizens."\*

\* In the part of the river (Shannon) where the stake-net fishery has taken place, the number of porpoises is quite enormous; there are also seals; and, in the construction that has been put upon the law (of 10 Charles I.), a general impression has gone abroad, not that we allow the fish to go to the upper waters to be taken for the purposes of human food, but that we rather leave the fish to



What would have been the effects of the Act had it totally transferred the power of taking salmon from the public in general along a river, and handed it over to individuals at the mouth? \* The consequences as to the conduct of the parties so aggrieved would surely have been such as are complained of,—open violence, carelessness as to the law, and utter neglect of preservation? Although a ‘sound commercial principle’ might have been held up, ordinary justice,—the ill effects on the public mind, and the results to the fisheries, would then have been lost sight of.

Let us suppose Scotland united to Britain under one crown in the sixteenth century, and that the Red-deer bred in her mountains had been accustomed to resort along ‘the king’s highway,’ to feed in the richer commons of England, and to return every winter to the Highlands to multiply their species *one thousand* fold; would the rugged *Celtæ* of that country, and their high-spirited chieftains,—the predatory borderers,—the foresters of Elliot, Graham, and Buccleuch, have aided an Act to preserve them as ‘a feast for the citizens’ of the metropolis? Why, it is all Lombard-street to a China orange that the deer-stalker of these days would meet but their ghosts! Their fate would have been that of the *Megaceros Hibernicus*, the gigantic Irish elk, whose gaunt skeletons tower in our museums over those of the Scottish stag or the puny English buck. He might, indeed, have been shown their antlers, as the remains of an animal extinct shortly after the passing of an Act in London ‘for the regulation of red-deer,’ imposing a penalty for killing them in their native hills during the fence-months, but permitting the *Sassenach* squires to slaughter them by the hundred in their gastronomic perfection.

Seriously, however, the ‘commercial object’ is of the first importance, and to be admitted accordingly. The best course to promote it will be that now advocated, the insuring a sufficient supply of fish to stock the upper waters,† and such an

be consumed by their natural enemies, the seals and porpoises.—*Evidence of T. Spring Rice, esq., M.P., 1825.*

In the case of the Shannon an obstacle is presented to the ascent of salmon in the great Lax weir, or it might be argued that the effect of a number of their enemies entering an estuary would be to increase the natural tendency of that fish to ascend a river.—*See Sir G. Mackenzie’s Paper, 1824.*

The Rev. Dr. Fleming, a naturalist, resident on the estuary of the Tay, gave in evidence the same year that salmon were the prey of marine enemies, and destroyed by them in great quantities. He described the porpoises as proceeding in a large herd, consisting of several hundred, and that they seemed to hunt the salmon like a pack of hounds, spreading along the channel and banks.

\* The fishermen consider the Act of Parliament in 1842, handed over to the landlords the rights which were then vested in the public.—*Evidence of J. H. Talbot, esq., M.P.*

† The Duke of Sutherland has found it necessary to suspend capture in his great fishings, (his *private* ownership enabling him to do so,) and has proclaimed a *jubilee* for two years to the finny tribe, to recruit the exhausted stock in his rivers.

equitable share during the open season as will create a lively interest above, and therefore the desire to continue and increase it.

By continuing these extracts the views of the Commissioners will be given, and it may be conjectured from them that 'non-interference' will still be overstrained in carrying out the law, as the 'commercial object' was in framing it.

"In concluding this important subject, we beg again to express our conviction, that upon carrying into steady effect the leading principles of the law of 1842, Act 5 & 6 Vic., cap. 106, with those we have had the honour to submit for consideration in our annual reports, mainly depends the avoidance of injury to the Fisheries, if not their increase and prosperity; and that on subjects where local and individual interests are often so much at variance with the general and public weal, where popular knowledge is so very imperfect, and consequently leaves so much latitude for speculative opinion, sound conclusions can only safely be formed on data dispassionately collected without predilections for peculiar mysteries of doctrine, modes of fishing, or personal considerations.

"We would respectfully illustrate our view by reference to the Act 9 & 10 Vic., cap. 114, the bill for which was prepared and submitted to Parliament in accordance with, and to carry into effect, the recommendations contained in our fourth annual report as to close seasons, recommendations founded on the result of two years' inquiry, and a mass of evidence printed in the report. Yet, in the passage of the Bill through the House, a clause was introduced, whereby eight counties were exempted from the operation of the law, which has produced the most extraordinary confusion; and we have had applications from nearly all these counties to extend to them, *by by-law*, the benefits from which they *were excluded by this clause*."

**SALMON AND TROUT FISHERIES.**—Under this head the injury they sustained, as noticed last year, is adverted to, as occasioned by causes issuing from the pressure of the famine. Others are also adduced, such as—the non-observance of the close season—increased want of co-operation to protect the breeding ground, the attention of the constabulary and of all other parties having been directed to the more onerous duties of the times;—open breaches of the law by persons of station, the overt re-erection of stake-weirs, the use of machines for the capture of fish in mills and factories, the placing of iron spikes across the free pass or queen's share in solid weirs, and angling practised by persons of the better order in the close season.

These offences, often only punished by nominal fines, and the general neglect of the law, were considered by the Commissioners to render it hopeless to expect that isolated acts of



interference on their parts could produce any beneficial or lasting effect, or that the fisheries of any locality could be brought to a permanently prosperous state by any but local means and attention.

Their remarks are thus ended:—"From all the causes we have adverted to, the Salmon Fisheries have not been in that state of quick improvement which the capabilities of the country, and the provisions of the law, if cordially concurred in and carried into effect, would produce. In fact, it would be hardly practicable these fisheries could improve, the means and power of capture being increased, whilst the attention to and protection of breeding were neglected, or at best left to the fortuitous operation of natural events."

After a perusal of this lengthened inquiry, in which the statements of the Commissioners themselves have developed a better policy to be observed for the legislation, control, and improvement of the Salmon fisheries of Ireland, and in which their explanation of their system of management is given:—after reflection on the disorganized state of this country, the peculiar circumstances of the property concerned, and the failure to execute much that the law pointed out to be done, the reader may be asked whether he will join in the verdict of the Lessees\* of the northern rivers, that these Fisheries have diminished from the constitution of the Act of 1842, and 'under the regime of the Fishery Board.'

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NOTE.

Notes from, and Remarks on, the Evidence of J. C. Alcock, esq., Member of the Leinster Circuit.—[Report, 1849, pp. 452, &c.]

'Before the Act of 1842, Baron Foster decided upon the construction of the statute of 10 Charles I., that a stake-weir was absolutely prohibited.' The words of Lord Hale are, that 'the *jus privatum* that is acquired to the subject, either by patent or prescription, must not prejudice the *jus publicum* wherewith public rivers, or arms of the sea, are affected for public use.' Mr. Alcock remarks 'that a weir is not indictable *qua* a fishing engine, at common law, because you cannot prescribe for a nuisance. There is no precedent of such an indictment. It is not maintainable merely because it takes fish.'

Lord Clare states, that if a party has a several fishery, he has a common law right to take every fish coming within his fishery. 'If,' observes Mr. Alcock, 'you indict a party as for an injury to the public fishery, you must show that there is an injury to public right. Now the difficulty in those cases is this; and that is why there was a miscarriage in all the indictments. We proved that there was no possible mode of taking the fish in this particular part of the river, except by a fixed engine. The *gravamen* alleged was, that we prevented parties

\* See their memorial to the Lord Lieutenant, June, 1848, in the appendix to the report of the select committee, page 152.

from drawing nets over the weirs; and it was proved that the people could not catch them by a fixed engine. We interfered with nobody; we caught fish for the benefit of man. The judge, in the *King v. O'Neil*, said, that he could not conceive how it was possible to be an indictable offence to catch fish in the only mode in which they could be caught to supply the market.'—*Evidence*, page 451.

But the old legal maxim of *sic utere tuo ut alienum non lædas* comes here into force. May the use of certain powers be advantaged and increased to the great damage of others? On this head the Lord Advocate of Scotland quotes the learned work of Mr. Bell; that 'the common interest which results from the migratory habits of the fish, gives to each heritor on a river, having a grant of salmon fishing, a title to challenge all unlawful modes of fishing.'—*Evidence*, page 522.

Again, where the exercise of powers in a 'several' fishery are greatly enhanced by the use of new methods, it might be expected that the law would afford means to restrict injury to 'common of piscary'; whereas the new Act established the assumed powers, repealed the laws forbidding them, and created a title to further encroachments, leaving the public to dispute questions where doubts might arise.

Mr. Alcock proceeds:—'The case of the Duke of Devonshire *v. Smyth*, as I have said, was decided upon the construction of 10 Charles I., c. 14; and after the decision in that case, there was considerable notoriety attached to the subject by those trials at Waterford—there having been two abortive trials; and I believe there was a co-operation between the Upper proprietors and the cot-men; for all the upper proprietors seek to assert their rights under what I would only call a pretence of asserting the rights of the cot-men, but to my mind, with a view of stocking their preserves in the upper river, and removing the fixed engines, so as to allow as many fish as possible to get up into the upper preserves, in order that every time they throw out a fly they may catch fish, or set those fisheries, which are valuable fisheries, to English gentlemen, in the summer.'—Page 455.

Without venturing to judge the motives which have actuated either the proprietors above or below, in this question,—(whether the rents of fishing shall be received through Scotch\* tenants of novel and fixed machinery, or English visitors† armed only with a rod and line,) it

\* The Act 'legalized the use of Scotch weirs.' A letter from the Board of Public Works, dated 24th March, 1843, (Appendix, page 37,) states—'The Board are influenced in making this suggestion (that the Crown Solicitor be directed to lodge informations) by another reason, viz.: that as the 5 & 6 Victoria, by legalizing the use of Scotch weirs, has in the opinion of cot-men much injured their interests, any step taken publicly to prevent the illegal use of those machines, would have a good effect on the poor and ignorant fishermen, who are acting under the influence of long-existing prejudices.'

Most of the new machinery was set up in Ireland by natives of Scotland. At all times we would invite both English and Scottish men to our land, as well as to our waters, especially in the present, when their enterprise and example would prove of the greatest value; but their tenure of both should be on a legal footing.

† Tom Purdie, Sir Walter Scott's shepherd, who had been an old 'black-fisher,' or night-spearer of salmon, was one day sent to attend upon Mr. Richardson, a London gentleman, while he tried for a fish near Melrose bridge. As they walked thither, Tom boasted grandly of the size of the fish he had himself caught there, evidently giving the stranger no credit for much skill in



would at least appear that hitherto the law had been considerate of those above, where a prior claim exists, care being necessary, and which cannot be exerted below, and that a new law has unscrupulously increased the lower means of capture, always naturally the greatest, and perhaps sometimes used on a title of doubtful legality.

Counsellor Alcock, however, states farther on, (page 467,) that he would limit the use of Fixed Engines within reasonable bounds. 'I will mention the principle of restriction which I would adopt. I would be unwilling to restrict the use of weirs in the lower rivers, inasmuch as they afford a more eligible mode of fishing in order to supply the market, and greater facilities of taking the fish where they are in the best condition. I would restrict the use of those weirs, so as to leave a fair share of the bounties of nature to go up to the upper proprietors. Secondly, I would restrict them with reference to leaving a sufficient stock of fish to supply the nursery; and also I would give an encouragement to the proprietors of the upper portions to protect the nursery, because it is entirely within their private preserves. But in every other respect, I consider that the rights which the proprietors of the upper river have are private rights of fishing, and rights in which the public have very little share or interest, because it is a right not to have the fish for the supply of the market to be taken by a net, but it is a right to stock a preserve that these gentlemen may have a monopoly for themselves and their friends, and may lease out those fisheries for others to fish, as a matter of sport. I consider it advisable in the lower river to have the means of catching the fish, because *non constat* that the fish will ever go up, and from every opinion which I have been able to form, I do not know whether there are not many more fish destroyed by grampuses in the open sea, and by seals and porpoises in the estuary, than are destroyed by man; and I think it politic that the market should be supplied by having the proper engines to take them in that estuary, where they are being destroyed by those marine enemies.'—*Evidence*, page 467.

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## CHAPTER VIII.

### SUMMARY—SALMON FISHERIES—LEGISLATION.

IN the last session of Parliament, at the instance of Mr. Anstey, member for Youghal, a select committee was appointed "to inquire into the Present State of the INLAND FISHERIES and NAVIGATION of Ireland, and the obstructions which hinder the

the Waltonian craft. By-and-bye, however, Richardson, who was an admirable angler, hooked a vigorous fellow, and after a beautiful exhibition of the art, landed him in safety. 'A fine fish, Tom!' 'O ay, Sir!' quoth Tom; 'it's a bonny grilse!' 'A grilse, Tom!' says Mr. Richardson; 'it's as heavy a salmon as the heaviest you were telling me about.' Tom showed his teeth in a smile of bitter incredulity; but when weighed, the result was triumphant for the captor. 'Weel,' says Tom, letting the salmon drop on the turf, 'weel, ye are a meikle fish, mon, and a meikle fule, too,' (he added in a lower key), 'to let yoursel be kilt by an Englander.'—*Life of Scott*.

enjoyment of the same, and the best means of removing such obstructions.”

The Report of the Committee was drawn up, after a laborious investigation of the matters referred to them, and presented to the House, accompanied by voluminous evidence, and an appendix of documents, occupying when printed more than 700 folio pages, and publishing experienced views and opinions, numerous plans, and Government reports and correspondence ; thus laying open to the public a mass of valuable information, fully evincing the need for parliamentary inquiry into the law and circumstances of our Inland Fisheries—a property of considerable value, and evidently capable of great and progressive improvement. As this would mainly depend on the constitution of the law, and the facilities given for protection and further development, considering also the growing neglect of all classes on the subject, and that doubts existed as to many conflicting claims, involving questions of public and private right, the Committee strongly recommended the immediate attention of Parliament to the adoption of expedient alterations in the existing law.

The points of primary importance to which attention is urged in the Report, are :—a speedy revision of the existing Fishery Laws, with a view to amend and consolidate them : a provision for the removal of obstructions to navigation wherever they are injurious or illegal : a power to give secure titles to owners of several fisheries, and private rights of fishing, so as to preclude future litigation : further powers of protection, and for the repression of poaching : the need of funds for making queen's shares in solid weirs, and passages for fish over mill-dams : a cheap, speedy, and certain process of abatement of illegal obstructions and fishing engines : and a provision for the more efficient administration of the fishery department of the executive government. The Report has, it is apparent, been prepared with great care—the various intricate questions having been sedulously investigated. The volume will remain an estimable guide for further progress towards a full proficiency of an interesting branch of our national resources.

Without proposing to do more than advert to the important subject of the obstructions presented by solid dam weirs to Navigation,\* it may be remarked, that any impediments to the extension of that means of transit are, in the deficiency of railways, to be deplored. Sir Robert Kane, in his valuable work on the Industrial Resources of Ireland, has pointed out the peculiar natural

\* Where stake-weirs exist to the prejudice of navigation, they are only maintained by the sufferance of the public as regards the use of navigation, and no length of time can prevent them from being amenable to this objection.—*Evidence of T. Spring Rice, esq., M.P., 1825.*



advantages Ireland possesses for inland carriage by water, which excels that by land, in reducing the cost of transport. He observes, that the extent of the principal rivers, and the number and magnitude of the lakes in this island, present natural means of communication such as are seldom equalled, and that the structure of the central country affords unusual facilities for the construction of canals.

Before the Act of 5 & 6 Vic., c. 106, became law, those of the Community who might wish to exercise the common-law right of fishing in the rivers of Ireland, found much of this species of property, which is of a commonable nature, in the hands of private parties, whether in virtue of grants from the Crown, or of 'several' powers of capture. The principal usufruct of many large rivers was in the hands of lessees of companies, or of individuals, and exercised by movable or fixed apparatus, or in those of individuals, by means of solid barriers stretching from bank to bank. An exclusive right to numerous small streams was maintained by others. At the mouths of the larger and more public rivers there were stake-weirs extending to low-water mark, and bag-nets on the coast reaching beyond it. Some of these privileges were sanctioned by a high antiquity, but the prescriptive claims to many of the powers exercised were often in more or less degree doubtful. The public rights enjoyed were *further* encroached upon by the new Act. The dubious establishment\* of some of these private claims, and giving facilities and legality to the erection and maintenance of novel and additional means of capture of Salmon on the shores of estuaries, and in rivers, where they had been hitherto unlawful, was, at the least, oppressive to those whose interests were thereby disadvantaged. In many cases the profits of fishing were diverted from the hands of the many to the few. So hazardous an experiment† should have

\* So far from removing the 'doubts which exist with respect to the right to use stake-weirs and nets, bag and other fixed nets in the sea and tideways along the coast of Ireland, and which right it is necessary to define and declare' (18th section)—the effect practically has been, in the trials before different tribunals, that magistrates, barristers, and judges, entertain conflicting opinions upon the interpretation to be given to the statute. See the reports of trials at Waterford, Kilkenny and Wexford, and the appeals to the Queen's Bench, referred to in the Report of the Select Committee, both in the Minutes of Evidence, and in the Appendix.

Under the 10th Charles I., (repealed by this Act,) stationary contrivances were clearly illegal in rivers, even within the limits of a several fishery; but by the above-quoted section, a *bonus* is held out to a man who has violated the law for ten or twenty years, by saying—'you have succeeded in keeping u your illegal erection for so many years, and here, therefore, is a clear title.'—*Evidence of Sir R. De Burgho*, p. 101.

'Any attempt to set up a peculiar right was a usurpation and fraud upon the inhabitants.'—*Evidence of R. Allen, esq.*, p. 326.

† The effects generally fell heaviest on the poorer fishermen, who were deprived in numbers of their livelihood. After making an experiment '*in corpore vilo*,' on a living subject, the recovery of the patient ought to be attended to.

been accompanied by the strenuous exertion of all those compensatory provisions which were intended to remove the force of objections to it.

The law failed to provide the public with sufficient powers to vindicate their rights, which remained infringed through their ignorance of the real state of the law, or want of means to try a question of title. On the other hand, sufficient powers to repress infringements on private rights do not appear to have been given.\*

After the passing of the Act, a great increase followed in the use of fixed engines. Numbers, who had previously left the common freedom of piscary unmolested, set them up upon the authority of the new law, and in some cases their title to do so remains questionable.†

The exercise of such powers, of which the rights are uncertain, or the means to try them are not available, must tend greatly to engender those ill feelings between the rich and the poor so hurtful to both, and to add to that insecurity of property in Ireland which has long been a cause of her unprosperous state.

Taking, as the object of paramount importance with regard to the Salmon Fisheries, the adopting that system which will raise them, as a national property, to their *maximum* state of permanent productiveness of this fish in its best condition as an article of commerce, as laid down for the policy of the enactment of 1842, and as the principle on which its provisions were based,‡ that, secondary to it, will be the securing rights or

\* The Lessees of the northern rivers, held under the Irish Society, complain that 'the greatest defect in the present laws is, that they are not sufficiently stringent against poachers in the close season—salmon being killed while spawning, in enormous quantities;' and that 'poaching in the open season has extended to an extravagant length, since angling became a free trade, in consequence of the absence of the magistrate's jurisdiction at that season.' They consider that under all the circumstances of the state of the law and of the country, the attempt to enlist anglers for protection has failed.

† The law as it stands at present, according to the 5 & 6 of Victoria, is in opposition to Magna Charta, and the common-law right; and so it was declared in point of fact by the judges, because they laid it down, that notwithstanding that the 5 & 6 Victoria gave permission to parties to erect Scotch weirs where the river was more than three-quarters of a mile wide, yet that neither that law, nor any other law, can or does interfere with the common-law right; the common-law right being this, that no man can put up an obstruction, either to navigation, or to the passage of fish in the king's highway, or in the tideway. With regard to the other portion of that clause which says that a person who has maintained a Scotch weir over twenty years, where the river is not three-quarters of a mile wide, shall be entitled to fish that weir; there again, the judges have declared that that is illegal, inasmuch as it is a fixed engine, and an obstruction both to navigation and to the passage of fish; and although the Act of Parliament does in a certain degree legalize it, yet it does legalize it against the common law of the land.—*Evidence of the Earl of Glengall*, p. 149.

‡ Pamphlet on the Irish Fisheries Bill, 1842. See also Seventeenth Report of the Commissioners, quoted in page 74.



interests as now existing, whether common or private; and, thirdly, such equitable regulation of the powers of taking an indefinite article of property, as will most conduce to the primary object. For the establishing that important principle of co-operation and unanimity between the different parties interested in the river fisheries of Ireland, so necessary to their mutual advantage, and the only foundation for raising them to their full value, it is essential that the settlement of the questions involving a fair distribution, to be lasting and valuable, should be equitable.

The Statute of 5 & 6 Vic., passed to regulate the discordant interests, might have originally been deemed an unjust and one-sided measure by those opposed to the use of improved means of capture, available only to a circumscribed number, and by which many would be injured by their legalization and consequent increase. It may now be strictly said to have become so—by the inoperation of many of the provisions which were to have acted in compensation for the encroachment affecting the majority. Its effects were to multiply the most powerful and exclusive modes of capture, while its provisions failed to augment or improve the means of production for the general good.

To reconsider the entire question—to apply to it that ‘lengthy and philosophical course of independent investigations,’ which the Commissioners of Inquiry deemed requisite ‘for the attainment of fixed bases for legislation,’—to advocate a restoration of the principles of the Great Charter,\* and a repeal of the recent Act, on the ground of the unsoundness of its policy, cannot now be proposed. A retrograde movement is not for the present age. A step in a wrong direction will be often best retrieved, not by undoing the past, but by providing for the future. It will now be the part of the Legislature to re-adjust the disturbed balance, by a righteous limitation of exclusive powers; by authorizing the protection of the Crown for the rights of the subjects; by facilitating access to

\* A forgetfulness of former statutes is sometimes observable in our laws. That their principles are made partly obsolete there is an instance in the present Poor Laws, in which the salutary intent of the statute of Elizabeth, of providing work for those who would eat, is not sufficiently fulfilled. It has been questioned whether the Irish Fishery Act of 1842 has not repealed Magna Charta, in so far as it relates to fisheries. It violates its spirit, by confirming and creating exclusive rights in rivers, and revoking the Acts of Charles I. and George III., which went to confirm the just jealousy of the Great Charter, and of subsequent statutes, as to undue powers of monopoly.

‘The parties framing that Act have unconsciously repealed the old statute law; they have very probably repealed Magna Charta. Judge Perrin suggested this at the trial of Regan’s case.’—*Evidence of Counsellor Alcock*, pp. 465, 495.

‘In my opinion, the statute of Magna Charta has not been repealed by the 5 & 6 Victoria.’—*Baron Pennefather’s Charge*, 1847. Appendix, p. 84.

the law, and insuring its enforcement; and by affording such means as will fulfil the intent of the enactment in its valuable perfection, and thus raise the River fisheries of Ireland to their height.

The recommendations of the Select Committee set forth the measures they deemed advisable; these may be classed under the heads of LEGISLATION, CONTROL, and IMPROVEMENT.

The following points appear to be those on which the interposition of the Legislature is mainly needed.

I. AN AMENDED STATUTE, consolidating the five Fishery Acts, and generally amending and clearly defining their language where vague, and, in detail, correcting the imperfections of many of their provisions. This would unquestionably require to be done with much care, and by competent legal skill, assisted by those whose practical knowledge of the subject, and of the working of these Acts, would enable them to point out such deficiencies as have been disclosed in their past operation. It is desirable that drafts of a bill be furnished to the Boards of Conservators, as representing the parties interested.

Such an amendment is advised in the first recommendation of the Report. Attention is also directed to some particular cases of difficulty. Among these,—with regard to the use of fixed engines, “it is provided by the 23rd and 24th sections of the 5 & 6 Vict., c. 106, that ‘nothing therein contained shall be construed to render illegal’ any stake-weirs and contrivances for placing nets ‘which had been established’ for periods of ten and twenty years, in certain cases, before the passing of the Act.

“It will be observed, that the effect of the reservation is neither to legalize the erection, nor to make it illegal, but simply to leave the title as it was before the passing of the Act.

“A great difficulty, however, appears to have occurred in the construction of the reservation, from the use of the word ‘established.’ It is strongly contended by some parties that the sense is ‘established at law,’ and this construction is as strongly contended against by others who interpret the word to mean, ‘set up,’ or ‘maintained;’ and who therefore refer it to a simple matter of fact.

“Assuming the latter construction to be correct, some have contended that at all events a continuous and peaceful establishment during the period, is necessary to give the benefit of the reservation. Others again allege that, so that the period can be made up, it matters not how many years may have intervened during which the erection in question may have been abated. These differences of construction are by no means confined to the parties interested in supporting them. It appears that they have formed the occasion of conflicting decisions in courts of justice, and of divisions of opinion amongst members of the same court.



“Without expressing any further opinion on this subject, your Committee have here again occasion to remark, that the ambiguity of the language of the provisions contained in that Act, by which the use of such engines is in certain cases permitted in the tideways of rivers and estuaries, especially when taken in connexion with the express reservation of public rights, made by the same enactment, has occasioned much litigation among parties, and uncertainty in the administration of the law.”

The word ‘established’ is stated not to be a legal term as applicable to the undisputed possession and working of a stake-weir; it would seem that an uninterrupted use was probably intended.

II. PRIVATE RIGHTS. DEFINED TITLES.—The appointment of a temporary Commission, the effect of which would be to give secure defined titles to owners of ‘several’ fisheries, or private rights of fishing, so as to preclude future litigation, by settling all disputed questions as between the public and private parties. To act as the Inclosure commission does in England, or as the Encumbered Estates commission is now proceeding in Ireland, To determine the existence or non-existence, the legality or illegality of the right claimed, and to define and register the titles proved. These would then be held indefeasible and inviolate. There are precedents for the appointment of similar ‘Courts of Claims’ in both countries.

The Commission would not *interfere* for the purpose of giving title to private rights, nor inquire into the descent or personality of the title,—but its effects would be to establish more firmly all that were legitimate. Their future encroachment on public privileges, or, on the other hand, encroachment by trespassers upon them, would be repressed, and not dependent on a doubtful trial at common law. The law might then reasonably arm the parties interested with larger powers to protect those rights; or the summary power, in the 41st section of 11 & 12 Victoria, for punishing trespass on well defined ‘several’ fisheries is perhaps all that would be required. The law would thereby further prevent the spoliation of private rights.

Claims not brought before, or uninvestigated by the Commission, would remain *in statu quo*. Appeal would be given from the award or decision of the Commission to a higher Court.\*

\* PRIVATE RIGHTS.—The Act, by repealing almost all former Acts, has thrown questions of property into confusion. Not only the public are deterred from prosecutions, but even lawful proprietors are deterred from instituting such proceedings as might elicit consequent defects in their own titles. The decision of questions of private rights, frequently assumed\* and frequently questionable,

\* ‘Above all things nothing is more to be deplored than the undefined state of the law in regard to claims of “several” fisheries; in many cases there are the most preposterous attempts at usurpation, and in others habitual encroachments upon private rights, both

III. PUBLIC RIGHTS.—The substitution of a speedy and summary process for abatement of obstructions or nuisances to public navigation or fishery. It is not necessary to give judicial powers to the Commissioners of Fisheries for this purpose, because the ends to be obtained would be more constitutionally arrived at through the ordinary tribunals of the country, if the law were made clear.

By rendering the provisions of the Act distinct, the intention of the Legislature may be practically carried out, in protecting the rights and interests of those of the public interested in river fisheries from further encroachments by private individuals than the law intended, and restraining within legal limits the power to erect fixed engines in tidal rivers and estuaries. For these

is left to the common law. Their injurious possession against the public<sup>a</sup> often remains unchallenged from the many obstacles attending litigation. After an illegal weir has been abated another is erected in the same place, the law being evaded by collusion on the part of the proprietor, or by the owner in law assuming a Protean change into a relative, friend, or pauper.—*Evidence*, 1849, p. 91. There are also great difficulties in the way of parties aggrieved trying a question of title.<sup>b</sup> The courts and 'the London tavern' are certainly open to all, but a protracted suit often gives the fish to the lawyers, and leaves the shell to the clients.

The very few cases in which private parties have had recourse to legal proceedings for the removal of obstructions is attributable principally to the manner in which, generally throughout Ireland, the fisheries are distributed amongst the public, and to the fact that but few private individuals have a sufficient personal interest to induce them to embark in heavy law suits.—*Mr. Fennell's evidence*.

The Lessees of the Northern rivers, in their resolutions of 1848, propose that the privileges and extent of all river and estuary fisheries for salmon be ascertained and defined, pursuant to, and in conformity with, 'established and existing rights.'

Mr. Barry, in reporting on the Rights of fishing on the river Cashen and its tributaries, in 1846, (see *Appendix*, 1849, p. 74), writes—'The next object of importance will be a clear definition of "several" and public rights, and I firmly believe that the peace and happiness of the community would be promoted more by the total extinction of the whole salmon tribe, rather than that the present state of things should continue, engendering the worst feelings, causing discord and contention, exhibiting scenes of selfish and arrogant usurpation on the one hand, of disregard even for ascertained rights, lawless encroachment, and of barbarous and malicious retaliation on the other. It may with truth be said, that property of all kinds is a prolific source of contention with mankind, but property of the description under consideration is, under present circumstances, in a peculiarly unsettled state; without some further aid from legislation it will, I fear, be utterly impossible to fix a precise standard by which conflicting rights may be clearly defined. It may be said that I exceed the limit of my duty in offering these opinions, but the peace and welfare of the country require that I should not conceal the result of my observations.'

leading to frequent breaches of the peace, and engendering the very worst spirit in the several localities, upon a subject which of all others requires a cordial spirit of co-operation.

'The first page in the First Report of the Commissioners, 1843, contains a full and candid exposition of the principles upon which it was intended to administer the law, "to leave to the public in general the power of causing the law to be enforced." In few cases unfortunately, in Ireland, can this principle be found to work. In the case of the fisheries it has utterly failed.'—*Mr. Barry's Report*, 10th June, 1848.

<sup>a</sup> The violent disputes concerning contested rights have recently occasioned riots, serious breaches of the peace, and even loss of lives.—*Appendix*, 1849, p. 108.

<sup>b</sup> Of this there is a remarkable instance in the case of the Carra fishery.—*Appendix*, 1849, p. 61.



purposes the Commissioners might be authorized to order the necessary steps. The law having been made clear, the removal of encroachments would be only a matter of Police, attention to which should rest with, and the duty be performed by (as in other matters of Police), a Public Department, and the protection of public rights not left to the chance intervention of irresponsible private parties, perhaps interested, or under the influence of 'fear, favour, or affection.'

The question of obstructions to Navigation might properly be separated from that of Fisheries, and the Commissioners of Fisheries need not have their present powers to deal with it. The Admiralty possess full powers, and the Commissioners of Fisheries might be required to forward to that department all complaints or objections made to them by any persons who may feel themselves aggrieved by the erection of any fishing engine, accompanied by their report. Such a course appears to be legitimate and expedient, and would furnish the humble owners of small craft with a medium through which their case could be made known.\*

Local interests will sometimes influence the decisions of Petit Sessions Courts.† The Act of 1842 gives power to any person who shall think himself aggrieved by any judgment, order, or conviction of any Justice or Justices of the Peace to appeal to Quarter Sessions; but it appears expedient to give all such persons the option in the first instance to appeal either to the Quarter Sessions or to the Judge of Assize.

On reference to the Select Committee's Report it will be seen, that the entire questions affecting the important interests of the community as regards all species of fishing property have been fully and ably dealt with.

After a consideration of the serious evils that result from want of obedience to the law with respect to public abuses, by means of illegal modes of fishing, it appears undoubtedly necessary that the Fishery Board should have the power to originate proceedings in cases of dispute or breaches of the law. They might be authorized, in case of any controversy arising as to any claim or pretension to a public or 'several' right of fishery or navigation,—or in any question as to the lawfulness of such modes,—or as to the liability of parties to open

\* The Act gives greater facilities for the destruction of weirs which are nuisances to navigation than were enjoyed by the people at common law,—but they are not applicable to them when illegal at common law as encroachments on public Piscaries, and in which respect the common-law process, and not the statutory one, must be resorted to. Any amendment of the law which would simplify or secure the process would be to that extent an amendment, and very great benefit to the existing law.—*See Evidence*, p. 149.

† There is occasionally, in all parts of Ireland, a disposition on the part of Magistrates not to interfere in disputed cases, and difficulties as to obtaining convictions in the case of stake-weir owners.—*See Appendix to Report*, 1849, p. 50, and *Evidence*, p. 142.

queen's shares,—as to the boundaries of fisheries, or the effects of title or privilege thereto,—to institute and carry on such proceedings as may be necessary for the prosecution of all parties offending against the law, or for determining questions at issue between individuals and the public. These steps they might be empowered to take, upon the application of the aggrieved parties, or if the modes (apparently illegal) were persisted in after due notice.

In order to enable the Board to check at the outset the erection of engines in illegal places, it would be well that it were necessary to give public notice of the intention to set them up, and also, that all parties intending to maintain those at present in use, should serve notice to that effect.

IV. PRIVATE RIGHTS.—The providing larger measures to repress encroachments on 'several' fisheries and private rights. It has been shown that where these are well defined there is sufficient power to punish for trespass.\*

The 114th section of 5 & 6 Victoria, hazards the security of 'several' fisheries by apparently making them public when the rivers in which they are enjoyed may be made navigable. This is a serious evil, as it may tend to check the disposition to increase inland navigation.

V. QUEEN'S SHARES.—The provision of a tribunal or Commission, by which it may be ascertained what weirs at present erected entirely across rivers, are liable, under the existing laws, to have enforced the opening of queen's shares or gaps through them; and also to provide, upon this being ascertained, that the openings may be peremptorily made.†

\* 'The Irish Society have conservators and water-keepers, but the establishment is not yet completed. The situation is not a *popular* one, and *none but respectable* persons will be employed. There are besides, 120 regular water-keepers appointed and paid by the lessees. The water-keeping may be considered effective, so far as it extends; but there are extensive mountain districts which may be said to be almost wholly unprotected, owing, first, to the heavy additional expense it would occasion, and in the next place, to the difficulty of procuring proper water-keepers; as in some of these districts, poachers have been allowed to continue their illegal practices so long undisturbed, that they look upon any of their neighbours turning water-keepers, as traitors, and persecute not only those who might be willing to enlist in the service of the Fisheries, but their families also. In some excellent spawning rivers, the lessees cannot prevail on a single individual to act as water-keeper; and thus the salmon are left the undisputed and undeserved prey of marauders, whose motto is, "*a stick out of the wood, or a fish out of the water, is neither sin nor crime.*" These illegal practices have been so long carried on with impunity, that many of the smaller classes of farmers, and decent people too, in their other relations of life, if they do not actually take part in poaching themselves, look on without dissatisfaction or disapprobation at the practices prevailing around them.'—*Evidence*, 1836, p. 23.

† 'With respect to Solid weirs, your Committee have one or two additional observations to offer. It appears that for years past there have existed weirs of this description on many of the rivers of Ireland, used for the purpose of taking fish; and that the effect of such weirs has been, on the whole, most injurious to the fisheries and the inland navigation. It has been noticed that



VI. PENALTIES.—All just and reasonable measures that would secure a more efficient protection to Irish Inland Fisheries, might be considered as effecting a saving of resources, and as a check upon crime. The consequences of familiarizing men with the violation of the law are well known to be dangerous.

The Select Committee report, that “they perceive with regret, that of late years there has been growing up in Ireland, a neglect on the part of all classes to protect the Fisheries in that country, or to check the poaching or illegal destruction of fish; and that those evil practices have consequently very much increased of late years, and are now in very prevalent and mischievous operation.”

The object of penalties being to deter offences for the time to come, they should be sufficient in all cases to render it *a loss* to incur them. The Committee report, that those now provided are not sufficient to repress the mischiefs against which they were directed,—that the extreme penalty is rarely imposed, and even if it were, the offender would often be the gainer, when the profits of the offence are large enough to out-

free gap, or queen’s share for the passage of fish, was required by some of the repealed statutes to be opened in some of these weirs; but there is reason to believe that this provision has been far from receiving very general enforcement. Some of those statutes expressly excepted certain weirs from even that restriction; so that the owners appeared to be empowered by Parliament to maintain, even in navigable rivers, a solid weir from shore to shore, opposing an effectual obstruction to the passage alike of fish and of boats.

‘Very much of the decline of the fisheries, and the decrease of the fish, appears to have been caused by this improvident system of capture.’<sup>a</sup>

‘On the question how far such erections are legal, notwithstanding the statutes in question, your Committee do not conceive themselves at liberty to offer any opinion. But they consider that the sooner that question is determined the better, whether for the parties themselves or for the public.

‘In this point of view also, it would appear that whatever may be the legal rights of the owners of such weirs, public policy demands that they shall not be permitted to injure the Inland Fisheries and Navigation of Ireland any longer; and that the question of the title to maintain the obstruction is material only in this respect, that it involves the question of title to compensation for reducing it.

‘Your Committee beg to repeat, that in their opinion, the Fishery Acts now in force with respect to fishing weirs used in the upper or fresh water portions of rivers, are vague, inconsistent, and unsatisfactory, the unqualified repeal of all former statutes having left it at least doubtful, whether the owners of any such can derive any benefit from a provision subsequently made for compensation to be granted for the making of queen’s shares, or gaps, in cases where such gaps or shares could not have been made before the passing of the 5 & 6 Vic., c. 106, the earliest of those enactments.

‘In case any fishing or other weirs now standing across any navigable river, whether in its tidal or fresh-water portion, and not having any sufficient gap or share for the passage of fish, or the purposes of navigation, should hereafter be adjudged to be legal, it is the opinion of your Committee, that the owner of such weir should be compelled to receive out of the public funds, a just and fair compensation for his right in that particular; which being done, the Commissioners charged with the administration of Irish Fisheries, should forthwith proceed to make all necessary or requisite alterations in such weir, so as to secure the free passage of fish, and the navigation of such river.’—*Report*, 1849.

<sup>a</sup> The quantity of fish was so increased in the Boyne by making a queen’s gap in a weir, that the weir actually took more than it had done previously.—*Evidence*, p. 467.

weigh the risk, and even the certainty of conviction. They recommend that in every case where a *maximum* penalty is imposed, a *minimum* be likewise provided, and the amount of either proportioned to the circumstances of each breach of the law.

It may also be advisable to provide a *minimum* period of imprisonment, with hard labour, for some offences.

Penalties may be divided into, 1, trespass; 2, fishing without license; and, 3, non-removal of nets during the close season.

1. The law appears inadequate to protect 'several' fisheries against trespassers, proceeding chiefly from the defect of the absence of magisterial jurisdiction to repress angling where unlawful in the open season\*.—(See the Memorial of the Lessees of the Northern Rivers, June, 1848.)

2. The penalty for fishing without having taken out a license, does not seem sufficient to deter many persons, and might be increased to not less than double, nor more than treble the duty to which the instrument employed was liable.

3. By rendering it compulsory to remove nets from the banks of rivers, the police and water-bailiffs would be much aided in preventing fishing at that period, when nets often left 'to dry' are used in the night, when it is difficult to detect the offenders.

VII. DESTRUCTIVE IMPLEMENTS.—It is very desirable that the powers—given by Acts of Parliament *passed in Ireland*, but repealed by the Act of 1842—should be reconsidered with respect to the use and possession of instruments which manifestly tend to the annihilation of the breed of fish.†

\* Examination of John Little, esq., Manager under the Lessees of the Moy. (Evidence, page 417).

Employs about 250 men as water-bailiffs, and about 80 fishermen. The Fishery has fallen off very much since the Act of 1842, to be attributed altogether to the working of that, and the Act since, principally by the increase of poaching in the winter time. The Act has conduced to that increase, no *minimum* penalties being attached to the killing of fish in the winter time, except in the enactment passed last Session; and that *minimum* is only upon the 36th section of the 5 & 6 Victoria. The magistrates fine only for serious poaching.

In the winter of 1841 (before its passing) he had 113 prosecutions.

„	1842	.	.	.	„	141	„
„	1843	.	.	.	„	248	„
„	1844	.	.	.	„	147	„
„	1845	.	.	.	„	226	„
„	1846	.	.	.	„	286	„
„	1847	.	.	.	„	309	„
„	1848 (up to 25th March)				„	229	„

In perhaps two-thirds, convictions were obtained. The parties were not heavily punished. The fines were not paid. Magistrates are generally unwilling to punish under the provisions of the Act. Sometimes a penalty below the *minimum* (10s.) is inflicted; parties are seldom able to pay it, and go to prison. They were usually sent there for a fortnight, and from a month to five or six weeks. It is no punishment whatever; they would rather go to gaol than to the workhouse, being fed there, and not fed out of doors.

† POISONING.—The destructive practice called 'burning the water,' has long



The Arms Acts prohibit the possession of guns, pistols, bayonets, &c., in Ireland, without license.

The Legislature in Ireland deemed it necessary to provide against the destruction of brood fish, by 'idle persons going at night in great numbers, disguised, with their faces blacked,' often in liquor, and armed with dangerous weapons.\* The river police fear to confront themselves with such parties, in dark nights, and in wild localities. As long as the implements are possessed at all, an illicit use of them is to be apprehended; but the law could not, with justice, proscribe the simple possession of them. Under a future good spirit of conservation, many will be voluntarily surrendered. But the Legislature might deem it expedient to provide a penalty for their being in the hands of persons on the bank of a river, when no doubt could exist as to the intent to employ them.†

prevailed in the wilder parts of Ireland; but a more mischievous proceeding is practised in the county of Kerry, of 'poisoning a river.'

There is a kind of spurge, a weed found in woods, the botanic name of which is *Euphorbia Hiberna*. It has a white juice, which is extracted by pounding in a tub. When the water is low, this stuff being thrown in the river destroys all the fish for a considerable distance, and they float on the surface. As this is done in the open season, there are no means of ascertaining the perpetration of the offence by the possession of fish, and there are great difficulties in detecting the committers. It appears the fish are not thereby rendered unfit for food; and when it is known that a part of a river has been so dealt with, numbers come down and take them out of the water.

As the present law is not sufficiently stringent to repress this pernicious system, destroying the fry as well as the larger fish, it may be advisable to impose a penalty on the possession of such deleterious matter, or of fish wilfully poisoned, if malicious intention in the first case can be proved.

\* 12 Geo. I., cap. 7. 'An Act for the better preserving the Salmon Fishery of this Kingdom.

'Forasmuch as by many undue practices, the Salmon Fishery in this kingdom is extremely decayed, and many idle and disorderly persons go in great numbers disguised with their faces blacked, or otherwise disfigured, and with lights, loops, spears, and other instruments, kill great quantities of Salmon in such places in fresh water rivers as they are preparing to leave their spawn in; to prevent which pernicious practices for the future, be it enacted,' \* \* for any person to seize and bring before a Justice of the Peace such persons found so fishing, or so disguised, though not actually fishing. A penalty of 40s. is provided, or in default, thirty-one days' committal to the House of Correction or Workhouse, with hard labour and due correction.

26 Geo. III., c. 50. Amending that of 23 Geo. III., 'for the Protection and Improvement of the Inland Fisheries of this Kingdom.'

Section 3. 'And whereas the destructive practice of killing Salmon and Salmon Peal when spent, and out of season, which tends not only to the great injury of fisheries, but the health of such as eat them, is generally carried on in the night, and by persons disguised, who frequently assemble with arms, and thus deter water-keepers and others from approaching them to discover their names, or prevent their intended mischievous practices; be it enacted, that if two or more such persons shall be found together with lights, spears,' &c., for the purpose of killing fish in the night, they shall be liable on conviction to a fine of £5, or committal to gaol without bail for not more than six months nor less than three, and for not less than six for every subsequent offence.

Another section provides, that if the offenders cannot be discovered, the fine shall be levied on the townlands on each side of the river where the offence was sworn to have been committed.

† SPEARS.—Under former Acts of Parliament, passed in this country, powers

## NOTES.

**SEA COASTS AND ESTUARIES.**—The shores of the sea, or of a navigable river, do not belong, in presumption of law, to the owner of the adjoining land, whose right only extends to the edge of the high-water mark of the ordinary or neap tides, and can extend to the low-water mark only by grant beyond time of memory, or by prescription.

The shore is that part of the land adjacent to the sea, which is alternately covered and left dry by the ordinary flux and reflux of the tides. In other words, the rights of the proprietor of the adjoining land do not extend beyond the highest ripple of the ordinary tide.

So jealous is the law of the rights of the public over the soil and waters of the sea, and its branches, that every one may fish in the sea, of common right, though it flows on the soil of another, and may justify going on the land adjoining the sea to fish, 'for this is for the commonwealth, and for the sustenance of many, and is the common law.'\*

The third clause of 5 & 6 Vic., c. 106, makes it lawful for fishermen to enter upon 'all such beaches, strands, and wastes, on or adjoining the sea shore or any estuary, as may be necessary for the purpose of' Sea Fishing. The nineteenth section empowers proprietors and lessees of lands adjoining the sea shore or any estuary, although not possessing a 'several' fishery, to erect stake or other fixed nets, 'saving to the subjects of this realm the free and full exercise and enjoyment of all other rights of fishing.' An encroachment on ancient common law was therefore made by this section of the Act. The eighteenth section of the Act, after reciting that '*whereas doubts† exist with respect to the* were given to search for salmon spears, or 'lysters,' which were declared illegal. These barbarous weapons cause the decrease of the Salmon more than other instruments. They are used principally by night poachers, to kill fish on the spawning beds.

The **STROKEHAUL** consists generally of three hooks tied back to back on a weight. This is thrown into the water, and when dragging along, the hooks strike into the fish. It is understood often to maim more than it takes. 'Stroke-hauling' is practised in some rivers by means of a triangle of large hooks attached to a thick line, with a large rod and wheel, and is used above the tide-way.

The **OTTER** is a board about a yard long, four inches deep, and half an inch thick, loaded at one end, with a line attached to it at a certain point, to enable it, by the traction of the boat, to preserve a parallel course abreast of the boat, or nearly so. The line is generally half a cross-line, with eleven flies, or thereabouts, the droppers of different lengths, the longest nearest the boat. It is used with most success in shoal water, and is nearly as 'killing' an artificial device as the natural enemy of the Salmon from which it takes its name.

The **GAFF**, or hook, is not so destructive as the spear, which more seldom misses its aim; but as it is asserted that more fish are wounded with the spear and gaff than are taken, these implements must be considered 'destructive,' and the use of them might be properly interdicted.

\* MacMahon on the Law of Fishery.—*Dublin Review*, 1841, p. 393.

† This recital admits the possibility of such means of fishing being illegal. 'I think that this statute is a fraud as against a number of persons, whose rights have been unjustly taken from them by it. I think also it was obtained against the rights of persons who have never had any means of defending themselves before Parliament.'—(*Evidence of R. Allen, esq.*, p. 329.) The Commission of 1835 admitted that they did not understand the question. During the progress of the bill, how far the stake-weir owners attended to it, does not altogether appear, (see Mr. Alcock's Evidence, p. 490, answer 6,986,) but, on the other side, the cot-fishermen do not seem to have been at all represented.



right to use weirs and stake-nets, bag-nets, and other fixed nets, for the purpose of catching Salmon in the sea and tideways along the coast of Ireland, and it is necessary to declare and define such rights,' enacts it lawful for any person legally possessed of, or entitled to any several fishery in or along any estuary or part of the sea coast, to fix or erect, or authorize or empower any lessee or assignee to erect the same within the limits thereof.

The 19th section makes it lawful for every person who shall hold and occupy as tenant in fee simple or in fee tail, or as tenant for life, or as tenant under any lease for a life or lives, or as tenant for a term of years, of which not less than fourteen years shall be unexpired at the time of first erecting such net, *any land* adjoining the sea shore, or any estuary, not being within the limits of a several fishery, but subject to the provisions of the Act, and to such regulations and restrictions as may be made by the said Commissioners as aforesaid, to fix and erect such stake-net or other fixed nets as aforesaid, attached to *that part of the shore adjoining such land*: Provided always, that no tenant under any lease for a life or lives determinable, or for years, of which less than one hundred shall be unexpired, shall be empowered to fix or erect such stake-nets, or other fixed nets as aforesaid, without the previous consent in writing of the chief landlord or lessor seised of any rent and reversion in such land; and provided also, that the placing or erection of such stake-nets, or other fixed nets as aforesaid, shall not give or confer any right or title to the occupancy of the said share (except for the purpose of attaching the said fixed nets thereto, during such occupancy of the land as aforesaid); saving to the public the free and full exercise and enjoyment of all other rights of fishing, or other rights whatsoever, in or along the said sea shore or coast, or the shore of such estuary as aforesaid, subject to the provisions herein contained.

This last section only empowers the *occupier* of land to use such fixed engines. The effects were greatly to abridge the former powers of the public to take fish, by legalizing the use of fixed engines in localities in which a 'several' or exclusive right of fishing did not obtain, and thus creating a new power to employ a most efficient novel means for capture. It narrowed the privilege to a certain class—occupiers of land. But while it gives the privilege to the landlord only when *occupier*, and extends it to the tenant for fourteen years unexpired, it makes the tenant dependent on consent of the landowner, (unless he possesses a lease of which one hundred years are unexpired,) who can thus require a rent for that permission;\* in

\* Adam Smith notices the very few instances in which rent constitutes part of the price of sea fish, thereby enhancing the price of the commodity to the consumer. The new measure enabled landowners on the sea coasts and estuaries to receive rent for a fish, from which, as bred and preserved in rivers, those of the interior are more entitled to receive any such return. "The power given by the Act to erect stake-weirs has been greatly abused by the proprietors, who, instead of giving them to their tenants, have brought strangers in, and received rents from those strangers. In addition to that, it greatly restricts the public right of fishing with draught-nets, which affects very materially the tenantry of those landlords; and we find by the evidence in the Fourth Report, taken upon oath, that in 1842, and upon the passing of the Act, the tenants were deprived of those weirs, and they were let to strangers."—*Evidence*, p. 301.

effect, to that extent creating a 'several' fishery, and conferring a new species of property on the landowner.

RIVERS.—The general use of fixed modes of fishing has been proscribed by laws of nations, in the just intent of prohibiting undue powers of monopoly. Perhaps, also, on the principle of the analogy that none but *moving* implements should be permitted for the capture of a commonable kind of property *constantly in motion*, and therefore liable to be taken by individuals in too great quantities by stationary apparatus.

That the proprietors of lands adjoining the sea shores should have the privilege of the use of such engines, is tacitly sanctioned, or left unfettered by the Great Charter. That foundation of common-law rights ordains that weirs shall not exist except along the coast of the sea.\* The Act of 10 Charles I., passed in Ireland, forbids the 'setting of stop-nets, still-nets, or standing-nets, fixed upon posts, or otherwise, in the rivers where the Salmon should pass up from the sea;' and further enacts, 'that no manner of person or persons shall use, or set, or take any Salmon with any such' fixed engines—a clause which may be interpreted to the extent that these fish were deemed *inland* property, and to forbid their capture in any locality by stationary devices. Weirs were interdicted in the rivers of Scotland by an Act of Robert I., still leaving their use unrestricted on the open coasts. By the laws of that country there is a prohibition of all fixed machinery for fishing of Salmon in the rivers and waters where the sea ebbs and flows. This is held to extend to all rivers and estuaries to the fullest extent to which the sea ebbs and flows, and down to the *fauces terræ* at the mouth of the firth, and the sands dry at low water, as well as in the channel. It does not comprehend the proper shores of the sea. It prohibits stake-nets in the land-locked estuary of a river, being the intermediate space between what is strictly the river and strictly the sea, but where the river and fresh water still exist with predominating influence; and they cannot lawfully be placed either in the channel of such river or estuary, or on the sands which are left dry by the ebbing of the sea.†

The legal question then resolves itself into a hydrographical one, of where a river terminates, and where the sea coasts commence.

The Act of 1842 left the decision of the position of the mouth or entrance into the sea of a river for fishing purposes, to the Commissioners of Fisheries, but actually took up the question left doubtful at law, by making it legal to erect fixed engines where the channel of the stream is more than *three-quarters of a mile* broad at low water, and confirming those 'established' for twenty years, and those for ten years in a 'several' fishery, when existing where the channel was of

\* *Nisi per costeram maris*. Dr. Johnson defines the word coast as 'the shore of the sea,' and adds, 'it is not used for the banks of less waters.' An estuary, (from *æstuo*, to boil, or be in a state of commotion,) is defined as an arm of the sea: the mouth of a river, in which the tide reciprocates: a frith, being a strait of the sea, where the water being confined, is rough. Can the coast of the sea be said to have commenced where the banks of the estuary are opposite, and close in sight, and where a *channel* exists?

† Evidence of the Lord Advocate of Scotland, 1849, quoting Mr. Bell's work, section 1, 116.



less width ; thus in effect defining the sea shores to commence at that point.

With what hydrographical or fishing justice can the 'coast of the sea' be said to commence where a *channel* in the tidal part of a river of such limit exists ?

The use of fixed nets upon the open coast is not so open to objection. They cannot obstruct navigation materially, nor intercept fish to a monopolizing extent, as in an estuary where Salmon concentrate, and move backwards and forwards with every tide, and where they may be readily taken by drift-nets or seines. Bag-nets also afford the only means of fishing on a rocky or exposed shore. But that proprietors of land adjoining estuaries and tideways should, by the use of these novel and improved contrivances, become the usufructuaries of an entire river to an extreme degree, is manifestly impolitic and unfair.

The 22nd section of the Act 5 & 6 Vic., c. 106, permits the erection of fixed engines within one mile on either side of the mouth of a river, where the channel of the tideway is more than three-quarters of a mile wide at low water of spring tides, by persons not already owners of a 'several' or exclusive fishery, either inwards or outwards of the mouth of a river less than half a mile wide. The situation of the mouth to be defined by the Commissioners.

The 23rd section is a saving for any stake-weirs and other contrivances for placing or erecting nets, which had been '*established*' for twenty\* years, within a tideway of less than three-fourths of a mile at low water, thereby rendering them legal, and leaving the *title* to maintain them subject to trial.†

The 24th section provides, that stake, and ebb, and flood weirs, or other fixed contrivances, '*established*' for ten years or upwards, within the limits of a 'several' fishery, are not to be deemed illegal, when they have been erected 'by any person legally possessed of, or entitled to such several fishery by charter, grant, patent, prescription, or Act of Parliament, in and by which such limits are accurately defined.'

The 25th section saves the right to maintain or erect 'that ancient description of weir commonly called "head-weir," not fished by means of a fixed net, but the rights of every party now legally entitled by charter or prescriptive right, to the erection or maintenance of such weir, shall continue.'

The 26th section provides, that stake-weirs shall not extend further than low-water mark.

\* Prescription in Scotland, to establish a right, requires *forty* years' possession on a sufficient title.—*Evidence of the Lord Advocate*, p. 519.

† 'One weir may be protected by the 23rd section, and another may not. I consider that with respect to this question, the only *forum* provided to try it, is a tribunal of magistrates: that there being in the 23rd section a new offence created, and a penalty and a summary method, it is clear and settled law that you must proceed for that penalty by that summary method, and that no indictment lies. This Act differs from that of Charles I., inasmuch as under the latter, the offence created was expressly declared to be indictable. There is no such clause in this Act; therefore I am clearly of opinion, that no indictment lies for the statutable offence created by this Act, and that that matter has been decided by the only *forum* by which it can be tried, namely, by the tribunal of magistrates.'—*Evidence of Counsellor Alcock*, p. 502. As to the difficulties of obtaining a conviction before this *forum*, see pages 54 and 87, and *Evidence*, p. 142. The law officers of the Crown would not undertake the responsibility.

The entire channel at low tides was thus undoubtedly left free ; but it is well known that Salmon make along the shore in their ascent, and that they are driven into the shallows by their natural enemies, the larger fish of prey. Indeed, the acknowledged efficiency of these modes of capture formed the policy leading to their legalization by the new Enactment. The Act afforded great facilities for their maintenance and erection, tending to legalize them in situations where they were hitherto unlawful, and repealing all acts in force relating to fisheries in Ireland whereby they were declared so. Dubious titles to 'several' fisheries were left to trial at law. The title of any party claiming to maintain such weirs under the 23rd section, or any party disputing such title, was not to be affected by the new Act, but all parties were to be entitled to their respective rights, as if the Act had not been passed, except so far as such rights depended on any Act thereby repealed.

The first clause in the new Act repeals all prior to it, 'save and except as to any offences, penalties, or matters committed, incurred, or done, or which may be committed, incurred, or done, against or under the provisions of the said Acts, or any of them, *before the passing* of this Act ; all which offences shall be dealt with, considered, and punished, and all such penalties levied, and all such matters deemed good, valid, and effectual, to all intents and purposes, as if this Act had not been passed.'

Therefore, all parties who had been guilty of maintaining unlawful fixed machinery under former law were still liable to the penalties provided by statute.

The Act of 26 Geo. III., legalizes any weir of which the proprietor has had uninterrupted possession for thirty-one years, but inflicts a penalty of £50, with costs of suit for debt on the owner or proprietor of the land, of a weir kept up unlawfully after thirty days' notice.

The Act of 1842 repeals the above, yet provides no penalty for the case of a person assuming a right of 'several' fishery, or claiming in right thereof to erect an additional weir, or to lengthen an existing one. Failing to afford sufficient power to put them down when raised unlawfully, it would leave the possession of a valuable yearly property to the chance of a difficult question at law.

There can be little doubt that steps should be actively taken to reduce the fixed engines in Ireland by the numbers which may be *illegal*, with respect to their locality, and extension below low-water mark, on the grounds of their injury to all public powers of fishing, and as interfering with the rights of possessors of legal fixed engines, or other private modes of capture.

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## CHAPTER IX.

### GOVERNMENT CONTROL.

REFERRING to the "Suggestions" to the Commissioners of Enquiry of 1835—to the explanation of the requirements of the Act of 1842, and of those subsequent to it, and to the annual reports of the Board of Public Works as Commissioners of Fisheries,—to recapitulate the remarks made on the extracts from them :—it is submitted:—



That the policy of 'non-interference' has too far influenced the governing authorities of the Irish Fisheries; that a more liberal policy in affording means for a more active administration in carrying out the Act would have been productive of extensive benefit to the country; that the views acted upon were not in accordance either with the intention of Government, the express provisions of the Statutes, or commensurate with the requirements of the subject; and—that the continuance of such a policy must leave much unremedied that ought to be attended to,—discourage many from taking a part in this long-neglected element for re-establishing our national prosperity, and generally retard improvement.

The systematic non-interference of the Board of Works was adopted and justified upon a principle:—the question now is—is that system good or bad? What has been the success of the policy—both of the Act of 1842, and of the subsequent control? The result appears in one broad feature of neglect.

The cry that 'self-reliance' and 'self-government' must be forced upon Ireland may proceed from some who are not intimately acquainted with this country. Admitting the general principle to be admirable, and that in all matters it is most desirable that Irishmen should learn to rely on their own exertions, and in many to govern their own affairs in all the perfection of English institutions,—still it may be asserted, that it cannot be applied in its entirety to such matters as the Sea and Inland Fisheries of Ireland—involving so many mixed interests, and partaking so greatly of a public character. The analogous instance of the Board of Poor Law Commissioners has been already noticed. For the preservation of the peace, the enforcement of the law, and the protection of life and property, crown lawyers, prosecutors, and clerks of the crown and peace are more required in Ireland than in England.

It will perhaps not be thought foreign to the subject, in an 'Inquiry' of this nature, to broach other matters of an analogous character, and which appear greatly to need investigation as to *bases* for sound arrangements. There are many questions of deep moment to this country,—apparently requiring not only an acquaintance with the principles of economic science, but with Irish history and ethnology, and a practical and intimate knowledge of their several bearings, as all tending to create the wide difference between Ireland and England.

The 'voluntary' and 'self-managing' systems have been proved by experience to be unsuitable to Ireland in some points, when carried to an excess.

It is a grave question as to how the voluntary system works, or would succeed, for the support of religious pastors in each denomination of creed. The dependence of the poor on volun-

tary alms-giving is now converted into a tax on landed property for the relief of destitution. By reference to Captain Kennedy's pamphlet, 'Instruct, Employ, don't Hang them,' it will be seen that a result of the present law with regard to Dispensaries has been, that none have been established in cases where absenteeism prevails, the law having been founded on the principle of not levying a county tax for their support, *unless* where voluntary subscriptions are received.

Persons acquainted with Estate management doubt whether the unfettered management of Irish farmers, free from the restrictions as to exhaustive cropping usual in Great Britain, has led to their advantage. Out of such restrictive conditions, which primarily secure the owner of the land against deterioration of his property, the admirable system, legal in England by custom, and known under the name of 'Tenant Right,' has grown up. It secures compensation to the occupier for the improvements he may effect, whether permanent or exhaustible. Adam Smith, alluding to the security given in England to the tenant, writes: 'There is, I believe, nowhere in Europe, except in England, any instance of the tenant building upon the land of which he had no lease, and trusting that the honour of his landlord would take no advantage of so important an improvement. Those laws and customs, so favourable to the yeomanry, have perhaps contributed more to the present grandeur of England, than all their boasted regulations of commerce taken together.'

The recent Act, which deprives landlords of the power of distraining growing crops, has been found to be productive of great frauds, giving a facility to dishonest tenants to cut and carry off their crops by night, while it is in effect productive of no benefit to the honest man, whose growing crops are still, nevertheless, liable to be seized by any creditor acting under a decree of the courts. This enactment is made *peculiar to Ireland*, denying that power to owners of the soil of this country which is still permitted to those of England.

An ancient Roman writer observes, that a landlord should be more rigorous in demanding good cultivation of his land than in exacting rent. Neither custom nor law enable a reasonable power to be exerted in Ireland in the former respect.\* The owner of land is often only a 'rent-lord.'

\* Much light has been thrown on the question, vexed as it is in Ireland, of the Relation of Landlord and Tenant, by the recent publication of Professor Hancock's valuable lectures, under the title of '*Impediments to the Prosperity of Ireland*.' The reader's attention is particularly requested to the 10th, 24th, and 25th chapters of that work. At the same time that a tribute of praise is offered to it, the author, whose labours have been so importantly directed in search of truth, will assuredly permit the following remarks: in the seventh chapter an analogy between land and certain commodities—leather, cotton, and tea, (which are articles of *trade*,) is assumed; but which does not exist, because the same per-



The circumstances under which large estates were acquired led to the continued Absenteeism of many wealthy proprietors, (those who can best afford to be considerate of their tenants,) and, also, to the creation of middlemen. It is seldom disputed that Absenteeism is in itself an evil, or that it is the cause of many contingent upon it. The main one to property seems to lie in the absence of the party most interested; just as the sun, although it exists in the night, neither warms nor invigorates.

The various evils arising from Absenteeism,—from the difference between the laws and customs of England and Ireland, —and those proceeding from defective legislation,—all affect the general social circumstances of the country,—while the cure is not in its power.

Arguments have been adduced showing the greater necessity for a governing control in the case of the Irish Fisheries than for those of Scotland; yet control, and liberal assistance is accorded to the latter, and the Scottish Fishery Board act in the most beneficial manner for the promotion of the commerce arising from them.

To apply the principle of 'self-government' in the extreme is to misapply it. Though a sound doctrine of political economy, it may yet sometimes not accord with a happier philosophy of Government, based on more expedient and benevolent motives, and requisite for the good of the human family at large.

The Select Committee report that—"considering the number and extent of duties devolved upon the Board of Works in so many other departments of public business, your committee is of opinion, that under the peculiar circumstances of the Salmon Fisheries of Ireland, and regard being had to the many conflicting rights and claims arising out of the same, it is absolutely necessary to their due administration, that it be confided to a separate department of the executive Government, (not connected with the Board of Works,) and that adequate means ought to be immediately provided for such administration."

The reports of the Inspecting Commissioners, printed in the Appendix, contain the views of those officers,—results of long experience as to the requirements for the control and full development of the Inland and Sea fisheries. These views are expressed with confidence, and evince an anxiety for practical, definite, and active measures. They are now again laid before the public as the best commentary on the past condition, and future means of promoting the improvement of this national

manent charges, whether private or public, cannot be made upon the latter;—if it existed, why should the machinery which is afterwards proposed be provided *specialy* for the case of land? The general registry of titles, &c., suggested, seems to imply an odious inquisition into titles, and a continuous and penal supervision of them, and is hardly in accordance with the principle set forth of 'non-interference.'

property. The necessity for carrying out the laws through the agency of a State department is clearly shown, so far as relates to those matters in which the interests of the community are concerned.

Questions as to the legality of public rights, or of disputed exercise of private claims militating against them, may properly come under the cognizance or interposition of the Crown, as the guardian of public interests, where such are greatly injured, and where unanimity, centralization of action, responsibility as to expense, and accurate legal and scientific knowledge are required, such as the public cannot be expected to be capable of, to undertake, or to possess.\*

It is evidently necessary and expedient for the protection of these rights, that means should be afforded by which a more uniform obedience to the law may be enforced with respect to public abuses. It is to be hoped that the Legislature will authorize the Fishery Board, as the officers of Government best acquainted with the nature and circumstances of such matters, to take the preliminary steps for establishing their illegality, and for their speedy abatement when proved unlawful.

A county surveyor is authorized to knock down any wall forming an illegal obstruction in a highway, and Government officers might be allowed to prostrate an illegal obstruction in a tideway; its removal would benefit those who are too poor to litigate the question of title, and the substantial weir owner might bring his action against the officials if they had acted illegally.

\* The Crown Solicitor, writing to the Board of Works as to the prosecution of illegal weirs in 1848, observes: 'I need not remind you of the vast importance of these cases, when viewed rather as the establishment of civil rights than the suppression of criminal offences, hence it is that I request this assistance to be furnished from the fishery department (namely, the aid of the inspectors of fisheries to procure the evidence and statements of such scientific persons, bailiffs, and others, as may support the case); and I would suggest that scientific witnesses, well acquainted with the respective localities where the several weirs are erected, with the currents of the river at all periods of the ebb and tide, capable also of giving evidence as to the natural history and habits of salmon, and other fish; as to the construction and operation of weirs, and as to fishing generally; persons understanding the navigation of the river Suir practically, as well with small as large craft, and consequently acquainted with the effect of the currents, both of wind and water.'—*Report—Appendix*, p. 90.

In some disputed cases which might come before the Board, no question might arise as to rights of property, but merely of the right to use a particular engine, depending on hydrographical circumstances. Local inquiry, and decisive authority, appears requisite in these cases. Where cases of title arose, they would be referred to the competent tribunals, and wherever the rights of the public were obviously infringed, the Board might institute proceedings, and assist by explanation. The Select Committee considered it expedient to devolve a power to regulate the length of nets to be used in all rivers, according to the breadth of such rivers respectively.

Some practical objections have been raised by competent persons against permitting the use of draft-nets above the tideway; the narrowness of the stream enables an interception that cannot occur lower down: witnesses examined before the committee in 1824 stated that dragging nets over spawning grounds in the spring is very hazardous to the young fry when emerging from the gravel.



## LOCAL CONTROL.

Public rights obtain largely in Ireland. This cardinal difference as to the composition of Fishery property is a less inducement to the laws being carried into effect in this country through the instrumentality of private individuals than in Scotland, and affords the strongest argument for the necessity of Government control. Where private rights prevail, or clash with the interests of the community,—the law requires to be enforced with a firm and impartial arm, and the interposition of Government ‘Resident’ Magistrates is often advantageous. But as judicial and penal powers have been devolved primarily into the hands of the local authorities and tribunals of the country, the effects of the law rest mainly on the exercise of those powers.

The recent enactment, termed the ‘Assessment Act,’ has divided the country into districts, and invested in each a body of men, locally interested in the Inland fisheries, with serviceable powers for their regulation and improvement.

The Act for the Assessment of instruments of capture, to provide funds for purposes of protection, was passed in 1848. Its provisions might well have accompanied the enactment six years prior to it; the necessity, expediency, and equity of its principle, as has been seen, was repeatedly urged by the Commissioners in their annual reports, in which the causes of the failure of Voluntary associations and private subscriptions are explained. It may be added that a general desire throughout the country prevailed in favour of it.

It may be styled an elective system of self-management, creating a species of county board of conservators or protectors. The elective principle is well carried out, giving cumulative votes to those whose interest in the fisheries is represented by the amount of tax paid;\* the proceeds are applied solely to the benefit of the right of property assessed.†

\* The Select Committee recommend that the scale of license duties should undergo an immediate revision in order that the burden of the assessment may be made to fall as much as possible upon those classes which derive the chief benefit arising from its expenditure in conservancy, and that the very poor may be, as far as possible relieved, and that rates leviable upon engines less efficient for the taking of fish may be reduced.

That the highest proportional rate should be levied from fishing property in which a vested and heritable interest exists, is manifestly equitable.

The funds might often be advantageously employed in enforcing the law as to encroachments upon the public, who, as a community, or as poor persons, do not generally understand or vindicate their legal rights.

Power might be given to the local boards to apply them in defraying the preliminary expenses of opening gaps in fishing and other weirs.

† Some slight amendments are required to improve the Act.

It is not desirable that the elections of Conservators should take place every year, as frequent changes might create confusion, and loss of experience.

Rods for trout fishing were not made liable to license duty, but it is reasonable they should contribute to a small amount. They are often used to take salmon, and it is difficult to prevent that use. The fry of salmon are liable to be taken by trout rods, while they are not caught by the large hook of a salmon rod.

This enactment has been received with general approbation and cordiality throughout Ireland; it has infused a vitality for protection through the river arteries of the island, and a new era of better prospects for fishermen will date from it. The frequent meeting of persons chosen as Conservators to discharge the public duty of promoting a common good insures a unity of action, and that practical co-operation between parties distant, or differently interested, on which the success of conservation depends.

The Irish Fishery Laws have evidently not been carried out as they ought, and might have been, either by the executive or the magistracy. Of this, abundant testimony may be adduced from the reports laid annually before Parliament, and will also be found in the evidence and documents of the late Select Committee. The continued non-observance, and frequent breaches of these laws may be said to have influenced the length and breadth of the land. The subject therefore assumes a deep and serious import when considered in its influence on the moral character of the Irish people. To 'render the laws a reality' should be the earnest aim of all on whom the duty of administering them devolves. Disrespect to these laws in particular is not merely detrimental to the prosperity of fisheries, but—in spreading a contempt for the law and constituted authorities in general—for the power that makes statutes which fail to be enforced, must tend to lower that standard of public opinion, the raising of which is of the first moment to this nation.

Sir John Davies records that, 'there is no people under the sunne that doth love equall and indifferent justice better than the Irish:' writing at a time when their desire for it must have been strongly felt.

Our Fishery Laws have a novel bearing in relation to the interests they effect in rivers; their full operation will also be novel. Much will depend on the justice in which they are conceived to have been framed, and on the good sense and temper in which they are enforced by our magistracy and conservators. The public must see clearly that their eventual benefit is fairly regarded, and that statutes have been devised and penalties inflicted with the object of protecting just public and private rights, and of deterring future injury to a general good. By an impartial administration of such laws, and a mild but firm perseverance in enforcing them, a better spirit will arise towards them among our quick-sighted people, and a cordial co-operation be created in all ranks, serving, under Providence, to increase a provision so bountifully given to our country.



## CHAPTER X.

## IMPROVEMENT OF THE SALMON FISHERIES.

IMMEDIATE and wide-spreading improvement of the Inland Fisheries would be promoted by providing funds, or means to raise funds, for carrying out those provisions of the Act which were to compensate for the increased powers of capture below; by facilitating the Migration of fish, whether hindered by artificial or natural obstructions, and thereby increasing the power of the fish to reach the spawning grounds.

1st. By providing that in weirs where Queen's shares cannot be enforced in Cruive Dam Fishing Weirs under the existing laws, without compensating the owners, that upon the amount of compensation being ascertained by an adequate tribunal, funds shall be provided, partly out of the public purse, and partly by levy on such parties, properties, or interests, as would derive the benefits, by assessment under the provisions of the 5 & 6 Victoria, c. 106, section 42.

Reasons why a free grant in aid from the Treasury for such a purpose is justifiable are as follows: it will be remembered that the 'King's gap' or 'free-share' is of ancient institution; wherever rivers have been 'put in defence,' or any 'kiddels' have been erected, it has either been by encroachment on the part of the Crown, or of individuals, on the public right; and the *lâche* of neglecting to enforce the law rests either with the Government or the public.

It may be argued that the State should contribute to remedy the evil in the case of artificial obstructions, since if there had been an earlier and adequate provision for *public* interests in this respect, they would not have now been so seriously damaged. The claim arises from a neglect or ill-enforcement of earlier laws.

A grant or allocation of public money to aid in the formation of Queen's shares, the removal of natural obstructions, and for making passages over mill-dams would frequently prove of as much service to the community interested in a large river, as in its allotment to a fishery pier or quay; and would be a boon to the public, justified by the precedent of the late Piers and Harbours Act, under which grants of a moiety of the sum required are made, the other half having been provided by the locality.

The direct effect of increasing the brood of fish in a river would be often as beneficial as the aiding the powers of taking it in the sea. Where river fisheries are mostly enjoyed by the public they claim a share with those of the sea, and in government were and are more dependent on the laws.

The sum that would be required to effect these important objects would be inconsiderable as compared with the profit that

would accrue to the community at large. Whenever aid from the Treasury is given to the fisheries of Ireland to the extent it is accorded to those of Scotland, it is to be hoped that a yearly sum will be specially appropriated to this valuable service.

2nd. By providing means\* for the construction of passages for salmon over Mill and other dams,† or for opening gaps.

3rd. By providing for the removal of natural, and some minor artificial, Obstructions.

Barriers are often made in the upper parts of rivers, with large stones between rocks, for the purpose of narrowing the channel, in the passes of which various sorts of nets are placed to trap the ascending or descending fish and fry. Powers to remove

\* The Board of Public Works have a large staff of engineers under their orders in different parts of Ireland, whose services might often be available to make the requisite plans and estimates for passes over Mill-dams, or for the removal of natural obstructions.

† There have been constant applications made to have the passes which are required under the 5 and 6 Victoria in all mill-weirs, passes over mill-weirs erected after the passing of this Act; parties have made applications recently to have that done: I have brought some of those cases before the Commissioners, and the board were willing and anxious to do it; but the question arose—where were the funds to employ an engineer? In one case recently of a miller, the board suggested that he should make this pass; that he himself should send some one, if he could, to make the plan, and submit it to the board. The miller was quite willing to do that. It is in a remote part of the West of Ireland, and he wrote to say that he could not get a competent person to make the plan, but that he was quite ready to adopt any plan which they made. Then the question arose; we had no engineer to do it, and it has been suspended in consequence.—*Evidence of W. J. Ffennell, esq., p. 215.*

† It is desirable that all persons should clearly understand that such regulations of Mill-dykes as the law provides for can be effected without in any degree causing injury to the milling power, by taking advantage of the overflow of waste water, and so concentrating a sufficient portion of it as to enable fish to ascend or descend without difficulty; and it is well to remark, that the erection of mill-dams, if judiciously arranged in their construction, so far from being an injury to the fisheries, may in very many instances be serviceable, by ponding the water, and thus creating depths sufficient to harbour and protect the brood and parent fish, during their required sojourn in the fresh water.

The importance to Ireland of the water of her rivers as a moving power must be duly appreciated, it being in the absence of coal, the chief natural support of her manufactures: but, unfortunately the interests of the fisheries, though not overlooked in the statutes, have suffered by failure to enforce them. Mr. Smith, of Deanston, was the inventor of an ingenious contrivance, a ladder or ‘salmon-stair,’ of stone or wood, up the watery steps of which the fish can ascend. By the adaption of this means it is quite possible to reconcile the interests of fishermen with those of mill and factory owners.

The report of the Select Committee observes: ‘the case of mill-weirs appears to be peculiar. They do not obstruct navigation. They are capable of being so constructed as not to injure the passage of fish. They afford employment to capital and to labour. It is, therefore, the opinion of this committee that every facility should be given to the public in the construction of ladders and other means of passage for the fish over mill-weirs, provided such erections do not injure the milling power, and the present legal rights of mill-owners.’

The legislature appears to have overlooked a class of obstructions where these dams exist in tributary streams, in which sufficient private interest would not accrue, or where the expense of making a pass, *pro bono publico*, would not be encountered. These cases perhaps constitute a claim to be defrayed by the public, unless a more efficient remedy be provided by legislation.—*See evidence of Counsellor Alcock, 1849, p. 494.*



these, or any similar devices for so obstructing the passage of fish, are required to be given by the Legislature.

4th. Restrictions as to the use of nets in the fresh water portions of rivers might fairly be made under certain circumstances. Salmon congregate in great numbers under dams constructed for supplying water to mills and factories, and for navigation, while waiting for floods to carry them over; here they can be taken in quantities by means of nets. Their use might be prohibited within a certain distance of such dams.\*

The right to use nets in fresh water rivers and lakes is frequently assumed by owners of reputed 'several' fisheries. The claim to employ sweep-nets, or nets of any description in such places might be restricted on the same grounds that the use of fixed engines is prohibited lower down, unless a long period of use could be shown.

GENERAL OBSERVATIONS.—The Report of the Select Committee closes with the following paragraph:—"In concluding their labours your committee desire to record, once for all, their decided conviction, that the wholesale and wasteful destruction of the breeding fish and fry has materially injured the inland fisheries, and has excited, and kept alive, much local discontent; and demands the immediate attention of Parliament in order to the adoption of such alterations in the existing law as may be found expedient."

With regard to the prospect of improvement in the Salmon Fisheries, considering that their increased productiveness must be most surely promoted by the protection of the breeding fish

\* Mill-races and wheels are great causes of destruction to fish in both their ascent and descent; the salmon in ascending swim up the tail-race from whence the water flows from the wheel, and by which they are sometimes struck and killed, or by turning off the water they are left splashing about in a shallow enclosed place, and where they can be readily captured by either gaff or net.

The fish in their descent, after having spawned, are attracted from the stream, where it diverges from the river into the mill-race, by the depth of the artificial channel, and in attempting to pass down sluices their backs are sometimes broken, or they are beaten to pieces by the wheel.

One of the Scottish witnesses examined before the Select Committee of 1824 stated: "I have seen hundreds of fry lying dead at the bottom of a mill-race, killed by the wheel, and have been told, by people who had seen it, that there were cart loads and baskets full taken up from the mill-races into the mill on the tributary streams of large rivers, and that people actually fed their pigs with them. I have seen them in thousands and tens of thousands in the water in the mill-leads, seeking to go down, but prevented by the dyke across the river, which they could not get over."

This must be considered a gross abuse of the liberty which millers enjoy of converting a stream, acting as the viaduct of a public kind of property, to their private benefit.

In Scotland, where from the prevalence of private rights, and national regard to the law, salmon fisheries are sometimes of greater value than the land to which they are attached, doubts have been raised whether the interests of mill owners are superior to those of the owners of such fisheries, and it is advanced that the latter have an equal claim with the former to a consideration of their requirements of water.

and young brood, it follows that the aim of the law should be to create the liveliest interest in preservation in those parts where the powers for that purpose, or for destruction, can be exercised—namely, in the upper and fresh water portions of rivers.

The policy of former legislation tended in the direction of considering Salmon a fish belonging to rivers. It was repeatedly affirmed by enactment and recital that it was for the public advantage that the spawning beds in Ireland should be protected. Both legislation and practice have of late years proceeded in a contrary direction, from the sanction given to the establishment and increase of what are styled by Sir Walter Scott, 'the newly invented modes of erecting snares for fish called tide-nets,' thus multiplying a monopoly, and rendering the community indifferent to protection. Those above were damnified to the extent of their chance of catching some of the finny tribe, and this is a difficult point on which to found an action. There is a *vis inertiae* on the part of 'the public' to try a question of right, and seldom sufficient individual interest on that of the owners of property on the upper portions of a river to induce them to embark in 'the troubled waters' of the law. Yet all are interested in the solution of the question of by what just and legal means a free run of fish may be permitted to reach them. The extraordinary instinct of the Salmon tribe, in penetrating to the interior of the land, and thus diffusing themselves through a country, may be said to indicate that this 'free gift of nature to the captor' was peculiarly designed for the inland inhabitants. Other fish remain in the salt water, and can be taken in shoals. That the Legislature should give exclusive means to dwellers on the sea shore for taking a fish apparently intended for those otherwise unprovided, appears unfair.

The owners of good angling\* waters, which are often a valuable property, whether for profit or for sport, have also been materially injured; and, whether as magistrates or as sportsmen,† the suc-

\* It is often said that 'anglers make the best water-bailiffs.'

† To quote the words of Mr. Mulvany, one of the Commissioners of Fisheries—'any attempt to suppress fair angling during the open season will, it is feared, only tend to increase the disposition to destroy the breeding fish in the close time.' *Appendix*, 1849, p. 54.

'An angler has the same horror of weirs that a gentleman who keeps harriers has of greyhounds;—they kill more with less sport.'—*Mr. Alcock's Evidence*, p. 457.

† 'The duty of protecting river fisheries against poaching is very effectively performed in Scotland, because you have every interest. You have sufficient means to do it in the penal law of the land. Then you have the interest arising from the preservation of a valuable property, and another interest, which is quite as strong, particularly in my country, namely, the interest of the sportsman; because where a property is not made valuable to the party holding it, in the shape of very high rents, it is often, as in the Tweed and some other rivers, of great value as a right of sport; and even large rents are paid to give the exclusive use of it to tenants, for the mere purpose of sport, without much regard to the actual capture of fish.'—*Evidence of the Lord Advocate of Scotland*, p. 520.



cess of conservation must greatly depend upon their attention to preserving. It is a manifest absurdity to expect in the case of a river, the 'usufruct' of which is enjoyed by a few at the mouth, that the magistracy will act as river-bailiffs to preserve for others alone. To use Sir Walter's witty simile, the country gentlemen would be then much in the place of a hen employed to raise young ducks, and find, after a lengthy incubation, the ungrateful brood betake themselves to deep water—never to return.

The Voluntary associations or societies for preservation, formed after the passing of the Act, soon fell to the ground: those above found the fruits of their labour plucked by others below. Even the wonderful fecundity and great prolific powers of the salmon failed to sustain the stock against the progress of capture and destruction. The old fable of 'killing the goose with the golden eggs' had little weight. There is a homely Milesian proverb, coarsely quoted by Shane O'Nial—the rude chieftain of Ulster, to queen Elizabeth; he remarks in a letter in which he asks for an English court lady to wife, that "the calf is the cow's owner's, not the sire's," implying that his offspring would be English. By this rule, the rearers, or dry nurses at least, of an animal, would have a claim prior to any other. And does not also protection deserve to receive a *quid pro quo*?

It has been shown how extensive is the field in the fresh waters of Ireland for the 'cultivation of fish,' only requiring that nature be permitted to sow it, and that man should cease to destroy.

Salmon that ascend to the upper waters have a double debt to pay; there should be enough to satisfy the fishermen above, and sufficient spared to breed. And it will be found good economy and policy on the part of those farther down to admit a sufficient number to pass up, whether by the 'Saturday's slap-by,' or other provisions. Summer floods will certainly enable many to escape to the spawning grounds, where sportsmen who have enjoyed a good season's amusement will attend to protection. The 'take' in the upper streams will be, by this means, far from injurious to the fishings at the mouth, where the 'commercial value' must always obtain. After the most that can be fairly done for the 'Protectionist' interest, the lion's share will be devoured in the tideways and estuaries.

The law might reasonably prohibit the use of nets above the tideway, or in fresh waters, under some circumstances. The employment of them is liable to abuse near mill waters, and in stretching nets from bank to bank. If such restrictions were made, there would be less scruple on the part of those below to allow a larger quantity to ascend, when the means of capture were thus restricted. Again, if the proprietors of good angling waters would let the privilege of fly-fishing to visitors, in many

cases more lucrative than taking the fish by means of nets, (always an inconsiderable profit in fresh waters,) advantages would accrue to several classes,—to the neighbourhood by the resort of strangers—and, in the increase of fish following the consequent care in protection, which would redound to the credit of the really valuable interests in the tideway.

After a review of what has been already accomplished, there need hardly be hesitation in believing that the productiveness of our Salmon fisheries may be greatly augmented. Their real character, and the bearings of their various interests, seem imperfectly comprehended. In legislating for them the true principle would appear to have been reversed, by looking to the mouth and not to the source of a river as that of production and profit.

The ordinary assertion of the 'brotherhood of the angle,' that Salmon 'belong to the river' in which they are bred, is contraverted by the observation that they leave it as soon as they are able, and may with as much truth be said to belong to the ocean, in which it is supposed they feed and grow. However, in the judgment whether this apple of discord shall be awarded to the Minervas of the land, or to the Venuses of the sea coasts, the fact must be borne in mind—that the fruit of a river, like that of a tree, will depend on the nourishment it receives at its roots. The *cornucopia*—or horn of plenty—is in charge of inland deities. The question is after all a futile one. Sir Humphry Davy, not an incompetent Paris, argued on the former hypothesis, and rested upon it strong claims for the Fresh waters. No such exclusive claim is here advanced; they are in effect, as in letter, *tributaries* to rivers; but, if the piscatory Irish above are not fairly dealt with by those below, they may be tempted to say with O'Nial to O'Donnel—'pay me *my* tribute, or if you don't——!'

Neither can prove a valid title to exclude the other. If bred in private waters these fish are fed in public. Care from man is needful above, equity below,—care indeed may give a claim on the plea of *sic vos non vobis salmone fertis aquæ*.\*

Property of any description is a prolific source of contention, and that of this unsettled nature will always continue an occasion of strife. To such evils,—if aggravated, the total extinction of

\* Dr. Paley, in 'the general Rights of Mankind,' thus argues the origin of property:

'Nothing ought to be made exclusive which can be conveniently enjoyed in common. Probable arguments must be shown that it is the intention of the Creator that things should be parcelled out to individuals. There is no argument to induce such a presumption but one, that the thing cannot be enjoyed by all or enjoyed with the same, or with nearly the same advantage, while it continues in common, as when appropriated. This is true, where there is not enough for all, or where the *article in question requires care or labour in the production or preservation*; but where no such reason obtains, and the thing is in its nature capable of being enjoyed by as many as will, it seems an arbitrary usurpation upon the rights of mankind to confine the use of it to any.'



the whole salmon tribe is to be preferred,—unless laws, founded on impartiality, and carried out in a conciliatory spirit, prevent the breach of that charity which is the second commandment to man.

In conclusion, it must be repeated that the great and solid foundation for Improvement of the Inland Fisheries will certainly be found in the removal or over-coming of obstructions to the free migration of the Salmon. She suffers no surmountable obstacles to interrupt her persevering progress. While these remain they present physical barriers to the fish, and moral and practical ones to co-operation between parties, whose mutual interests require unanimity in the endeavour to cultivate and protect these fisheries. All other means which may be applied will fall short in the production of valuable results.

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NOTE.

SIBERIAN SALMON FISHERIES.—“It is Russian civilization which has reduced to misery the fish-eating tribes of the Irtuish and Obi, (two great rivers of the Siberian Continent,) and this without the intention of so doing, and in a way not liable to censure: for, to most people, it will seem an advantage that the fish of these rivers should be taken at particular places, in larger quantities at a time, in a manner open to the inquiries of the statist, and that single families should be able to make large fortunes by the fisheries, while enough still remains to the original inhabitants to enable them to live with little care. But it must undoubtedly be here expected, as a consequence of European industry, that the remarkable migrations of the fish up the fresh waters, will hereafter be known only from traditions of the past; for all over the earth, from the equator to beyond the polar circle, there is hardly the mouth of a river, which was not at some early period frequented by those inhabitants of the sea, as regularly as they now visit all the rivers of Siberia, Kamschatka, and of the American coasts, occupied by the indigenous tribes: and the migration in question is, assuredly, one of the phenomena which man has it in his power to eradicate completely from the face of the earth. Should such results be approaching here, yet it is not likely that they will have what can be called a decisive effect on the human race, for the Ostyaks must all perish before that critical period arrives, but the Russians surviving them will betake themselves to new branches of industry when the fisheries once fail.”—*Erman's Travels in Siberia*, London, 1848, vol. ii. p. 93.

M. Erman states that Russian traders annually fit out great fishing expeditions, and settle themselves in the neighbourhood of the most productive sand-banks, which they purchase or hire of the Ostyak inhabitants. The nets used are 800 feet long. The salmon are salted and packed in tubs, which contain from 800 to 2,500 each. Some of these Russian fishing companies have recently realized profit to the amount of 150,000 rubles (or about £25,000) in one summer; “but,” adds M. Erman, “it is at the same time equally certain, that the fisheries of the Ostyaks round about were thereby seriously damaged.”

He continues,—“The Russian official agents, to whom the superintendence of this country has been confided, have been always perplexed by the difficulty of reconciling the conflicting interests in this case; but never was so rare and felicitous an expedient for the welfare of the land thought of, or explicitly enounced, as that contained in the still unexecuted scheme of M. Karnilof, who proposed, at one time, to the government at St. Petersburg, that it should take into its immediate possession all the valuable fisheries on the Obi, and lease them only to Russians, for ‘then,’ he observes, ‘the harmless and amiable Ostyaks, to whom the sand-banks belong by inheritance, would at once, and for ever, be relieved from the anxiety of retaining possession of them, and nothing more would be heard of their troublesome complaints of local injuries done to them. The fish-eating inhabitants might then learn to support themselves on the nuts of the Siberian pine, or by catching birds and quadrupeds; so engaged, they would not be troubled with competitors, and might enjoy tranquillity of mind.’”

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## CHAPTER XI.

### THE SEA FISHERIES.

THE mass of useful information collected by the labours of the Commissioners of Inquiry, and their cautious and well-judged Report, will always remain the beacon to guide proceedings in the direction of improvement of this arm of national wealth and naval strength.

The following extracts from the Report, containing their recommendations, will show how far the measures they proposed were adopted or rejected, and serve those who may desire to make further inquiries.

With regard to the productiveness of the coasts of Ireland, the Commissioners reported, “that the miserable and depressed condition of the Fisheries is not in consequence of defective natural resources: on the contrary, Ireland is a decidedly favoured country as to the riches of its waters. With this fact foreign nations were early acquainted, and their fishermen were long accustomed to approach the Irish coasts, for the purpose of fishing on ground superior to any near their own shores.”

The north-western coasts abounded in fish, but the means of taking it were generally rude and inefficient. “It is in this district that poverty especially prevails, that famines are of ordinary recurrence, and that the means of the fisherman are the most completely inadequate to a profitable pursuit of his avocation. Here it is that the general condition of the country offers the fewest auxiliaries to the philanthropist in his plans of improvement, and that the Commissioners have found the greatest difficulty in discovering any satisfactory and applicable measure of relief.”

In the eastern waters a scarcity of fish was asserted, but



appeared to apply chiefly to the in-shore fisheries. "The English trawlers, who are well appointed, and fish the deep waters, make no complaint. Mr. Bartlett, on the contrary, acknowledges a steady profit of £30 per cent. on his outlay." The famous Nymph Bank, off the Waterford coast, was affirmed to yield white fish in inexhaustible quantity. Scarcity was confined to the bays and in-shore fisheries, to which the operations of the fishermen, owing to their poverty, and insufficient gear, were chiefly confined.

A similar fact prevailed with respect to the herring fishery; while the shoals were said to be less abundant than formerly, they were always found in the open sea during the season, and boats which stood out into the deep water returned laden.

CONDITION OF THE FISHERMEN.—"In 1830, when the establishment was dissolved which had been formed by Government in 1819, for promoting the Irish Fisheries, similar to that created for the Scotch Fisheries in 1808, and still maintained, there were around the coast of Ireland, 64,771 fishermen, and 13,119 fishing-boats. In 1836 there are, according to a carefully revised enumeration, made by the officers of the coast guard, only 54,119 fishermen, and 10,761 boats. This decrease of 10,652 in the number of persons occupied in supplying fish for the markets of an increasing population, occurring so suddenly, while the consumption of all other domestic supplies has been considerably augmented, and in a period during which the markets of Liverpool and Manchester have largely increased the demand on the industry of Irish fishers, is a lamentable fact, too plainly indicative of much local suffering. It appears, however, that at the appointment of the late Fishery Board, the total fishing population of Ireland amounted to but 36,000, and that during the short course of its activity, the numbers increased to nearly the double. Hence it may be inferred, that the subsequent falling off, must, in part at least, be a result of some previous excess of stimulation; and that the bounties had indeed drawn more persons to this branch of industry, than in the then condition of the country were really enabled to support themselves by its exercise without Government aid."

"On the social habits of fishermen, the Commissioners are unwilling to hazard much remark. Like the Irish peasant, the fisherman is enterprising and industrious whenever a prospect of reward is held out; and the man who voluntarily seeks his living on the sea, cannot be wanting in aptitude for labour, courage, or perseverance against adverse circumstances. The emigrants from the Island of Arran are reported to earn a comfortable livelihood by fishing at New York and Boston; thereby proving their general qualification for the business when duly encouraged. As to honesty, the Irish fisherman is considered

to be habitually punctual in his money dealings. But, with respect to sobriety, directly hostile testimony has been offered, even from the same districts. It appears undeniable, that an abuse of ardent spirits prevails among the fishermen in towns, but exists to a less extent in the smaller fishing villages. As this vice exhausts too large a portion of the earnings of the poorer classes generally, the Commissioners must include it among the causes which operate injuriously on the Fisheries. It is an evil which can only be abated by raising the condition, and multiplying the comforts of the fishermen,—by the influence of a practical education,—and by a *change in those fiscal laws* which are found to promote a pernicious consumption of the article. In the exercise of their calling, the fishermen are accused of evincing strong prejudices; and a very common disposition to combine for the purposes of intimidation, and to make their own will the law against all rivals and competitors. Such practices are not unknown in different kind and degree among other tradesmen; and though they may disappear as civilization advances, they still constitute an evil that excites a frequent cry for redress.”

The Fishermen of Ireland generally were found to occupy small portions of land, and to depend for subsistence from that source more than on the sea, “and their condition was mainly determined by the local circumstances of agriculture.” Great distress was apparent, traceable to various causes; but in some places, however, the well-equipped, skilful, and prudent fisherman was represented as able to support a family, without land, on a scale of comfort superior to that of other labourers. Their inferiority in equipments and skill, was at once the cause and effect of the low condition of Irish Fisheries, and must exist until better are possessed. “The proposition of adding to the existing plan of National Education, schools of special instruction in useful employments, is daily gaining ground in public opinion. Such instruction is recommended for agriculturists, by the Poor Inquiry Commissioners; and its importance for this object was pointed to in 1803, by Mr. Jefferson, late President of the United States. ‘The charitable schools,’ he observes, ‘instead of storing their pupils with a lore which the present state of society does not call for, being converted into schools of agriculture, might restore them (the pupils) to that branch, qualified to enrich and honour themselves, and to increase the productions of the nation.’”

MARKETS.—The quantity of fish, both fresh and cured, obtained from Irish fishermen, was found to be insufficient to meet the demand, fully demonstrated, as to cured herrings, by the great importation of them from Scotland, and also corroborated as to dried fish, which was nearly all imported. The



value of the article when fresh, depended chiefly on the nearness of the demand, especially for those of the finer qualities. A potato-fed population could not be expected to afford to consume this diet, unless in great abundance. The increase therefore of demand, depended on increased means of transit, an additional stimulus, "which, if assisted by improved harbours, and such other necessary means as a wise economy may supply, will, after no great lapse of time, place this department of industry in a more healthy condition, and be met by increased exertions on the part of those engaged in the trade.

"The facts as to the demand for salted fish are too decided to admit of doubt. Scotch herrings are on sale in the greater number of Irish towns, and even at places near the sea coast, almost beside the living shoals. With respect to the other species of salted fish; the continental demand for dried fish is at present extensive, and new markets might possibly be found capable of taking off increased quantities. Considering the progress of the colonies, and the growing prosperity of civilized Europe, the prospect of remunerative returns for this article must be regarded as promising. The taking of white fish has hitherto been comparatively neglected, probably on account of the Newfoundland Fisheries, or because they abound only in the deep sea, where the boats are not sufficiently commodious to follow them. But if the resources of the Irish seas be not greatly exaggerated, the people of this country could easily bring their fish to market at a cost below that attendant on a long voyage to a distant fishery. On the causes which occasion the prevalent importation of salted fish, the Commissioners regret that the information they have received is incomplete and contradictory. It is frequently stated, that Irish fish has a preference in the market, and fetches better prices than Scotch. But the Galway evidence shows that the bulk-cured Irish fish is saved in a coarse and inferior way. How then can it bear a higher price? And again, if it does so, why does it not drive the Scotch fish out of the market? Irish capital, it appears, is sent to Wick, to be there employed in curing herrings; which would not be, if the article could be procured better and cheaper at the domestic fishing stations. But, however this may be, the Commissioners are safe in pointing to an increase of care and of economy, as the surest means of extending the home market."

MEANS FOR IMPROVEMENT.—"Turning from the actual condition of the Irish fisheries, to the means for their amelioration, the Commissioners have cast a retrospective glance at the course of legislation hitherto pursued both at home and abroad. At the outset of the attempt of the British Government to obtain a national fishery, the most direct means of encouragement were considered the best; but in latter times, the effort has been

restricted principally to bounties, small grants, loans, the construction of piers and harbours, and (in Scotland) the establishment of fishing stations; each of these deserves a short separate consideration. No considerable and general effort was made for aiding the industry of the Irish fishermen till 1819, when Commissioners were appointed for applying, in Ireland, the system adopted for the Scotch fisheries in 1808. These Commissioners were empowered to distribute public money in bounties, to persons fitting out fishing boats of a specified tonnage, and curing herrings, cod, ling, and some other fish; also, to make regulations suited to particular localities, and inflict penalties for practices then made illegal. A sum of £5,000 Irish, was annually placed at their disposal for the further encouragement of the fisheries, but its application was subsequently limited by law, to the building of piers and repair of fishing boats; and a large portion of the sums accruing from these annual grants was used as a loan fund, for enabling fishermen to provide equipments on advantageous terms. This system was continued until 1830, when the Irish establishment was abolished."

**BOUNTIES.**—The Commissioners premise by observing, that it would not be expected in the present day that they should enter upon the general question of bounties. A short history is given of their application to the Irish fisheries since the year 1819. "Under the operation of the system, a great increase in the activity of the trade was experienced; much capital was drawn to it and large sums were circulated among fishermen, curers, &c.: what proportion these benefits bore to the sums expended may be collected from the returns quoted in the appendix. At the end of ten years, when the bounties were discontinued, the trade began to fall back into languor and exhaustion; little or no new capital had been created by their assistance, and vested in the Fisheries; accordingly, many of the boats which had been employed under their stimulation, were immediately withdrawn from the trade, and suffered to rot on the beach, while the men sought other employment, or sunk into mendicancy, &c. Some portion of this failure may indeed be assigned to causes not necessarily inherent in the system; such as the shortness of its duration—the abrupt manner in which the bounties were withdrawn—the cost of outfit incurred by boat owners to obtain them—and to evasions and frauds which were largely practised to the injury of the fair dealer." They did not augment local employment to any extent among the fishers on the western coast, and were not obtained on the great bulk of the article caught by local fishermen. "It is true that bounties for promoting the fisheries are still given in France, Belgium, and Holland. But the example of other countries, far from affording encouragement



to their revival, furnishes a conclusive argument against it; for, if bounties were capable of accomplishing any permanent good, the necessity for their continuance ought to have ceased in those countries long since."

**GRANTS FOR FISHERMEN'S HARBOURS.**—In 1824 grants of £500 a year to Ireland and to Scotland were directed to be applied for materials to repair the boats of poor men, where piers should be built; the residue to the building or repair of piers and quays, where one-fourth of the expense was defrayed by parties locally interested. In 1830, £13,000 was appropriated for completing piers in this kingdom: but no provision was made for their maintenance, and several had become very dilapidated.

"The policy of applying public money in aid of any branch of industry, however unsound and pernicious on general principles, has, nevertheless, been deemed wise and beneficial, when adopted for the promotion of objects in which the interests of the community and of the poorer classes are more concerned than those of individual capitalists—such as the improvement of harbours and rivers, to facilitate general commerce, and also (the Commissioners submit) the providing of harbour accommodations for fishermen. There are various accommodations required by fishermen, which are peculiar to their trade, which their own means are insufficient to provide, and in which landlords or other capitalists have not a sole pecuniary interest sufficient to induce an outlay for providing them: such as piers, boat-slips with capstans, moorings, harbour-lanterns, with sheds or stores for sails and other uses connected with the fisheries. Heretofore a portion of such accommodations has been provided by grants of public money, in aid of local contributions; but the Commissioners are of opinion, that all should be provided on the same principle, wherever they may be requisite; whether the local contributions shall be made in money, subscribed by individuals, or assessed on the localities, or made in materials supplied by the fishermen."

Leading lines of public communication were frequently required to these harbours, which the Commissioners conceived should be provided for on the same principle as the harbour expenditure.

The fact is then adverted to—that where the voluntary principle had prevailed, piers had been erected on those sites only for which local proprietors were willing to contribute, which were not always the sites calculated the most perfectly to insure the purpose.

**GRANTS TO FISHERMEN.**—These, as alluded to in the preceding section as distributed in Scotland and Ireland, were stated to be given in the former country in very small amounts; and only once in three years to the same person; yet were said, though subject to occasional abuse, to have a very beneficial operation.

“However, it must be observed that in Scotland there are the public officers of the Fishery Commissioners stationed around the coast, through whom the distribution is made; but in Ireland there is now no such machinery, and without its aid the administration of the fund would not be easy. The policy, moreover, of these grants is very questionable. If given for repairing fishing boats, they may be as justly sought for all other implements of industry; and fishermen requiring materials for nets or lines, have stronger claims to aid, than those with damaged boats, who are not so poor. This mode of relieving the Irish fishermen is not only objectionable, but so inadequate to their wants, that the Commissioners will not avail themselves of the example set in Scotland, to support a recommendation for its revival in Ireland. They consider the operation of Loan Funds as a better means of assisting the fisherman’s individual necessities; and they look forward to their establishment for the purpose.”

**GRANTS FOR LOCAL INSTRUCTION, AND PREMIUMS TO FISHERMEN.**—“Among the means suggested for extending the fisheries, are premiums for good boats, and nets, and for the most scientific and successful modes of fishing. If such aids be calculated merely to stimulate the fisherman in the improvement of his art, and not made to draw supernumeraries into the business, they may be safe. The danger lies in the possibility of over-doing the proposed end; and to avoid that, if the attempt be made, it should rigidly be confined to local agents voluntarily interesting themselves in the undertaking. It cannot, however, be concealed, that in Ireland such a voluntary effort, unassisted by the public purse, is not always to be expected; and it is a question worthy of consideration, whether any, or what encouragement should be held out to associators for fishery improvement, who may be inclined to watch particular localities, and apply such stimuli to industry and order, as may from time to time appear requisite.”

The Commissioners, not being unanimous as to the policy of recommending such assistance, merely placed the proposition in their report, specifying the objects to which it was proposed the grant should be applied, should that division of the subject be entertained.

**LOANS TO FISHERMEN.**—The Commissioners were favourable to the granting loans to fishermen in aid of building and repairing boats, and providing nets and other gear, under that system on which its success entirely depends. They merely refer to the practice hitherto in this respect, which appears to have acted imperfectly from defective regulation. “The system of Loan Funds for the relief of struggling industry has been tried in several parts of Ireland, and is believed to have operated favourably; as well on the morals as on the physical condition of the poor. But the value of a Loan Fund entirely depends on



the use which is made of the money. In those instances in which distress proceeds from losses at sea, from sickness, temporary depressions in trade, or other inevitable calamity, it must be a safe and essential relief; but if it ever be suffered to draw additional hands into an employment, which are not called for, its utility would be more than questionable. For security against such a consequence, it is desirable that the establishment of local Loan Funds, receiving aid from the Government, should, in the first instance, flow from a voluntary co-operation of the respectable inhabitants of the district. Such parties, on becoming bound for the repayment of the loans so advanced, will take good care that they are not intrusted to the idle, the dissipated, or the reckless adventurer; and will, in turn, look to a sufficient surety for the borrower's fidelity."

In Scotland, where the business of fish-curing is kept distinct from that of catching, the curers make such advances. The system also obtained in the large Irish markets. After detailing their advantages—where new boats or nets are wanted, and as preventing usurious charges for small accommodations usual in most places—the report proceeds:—

"The Commissioners are therefore led to a conviction that local Loan Funds for the fisheries might tend to an improvement in the condition of the fishermen, and communicate a desirable increase of activity to the trade. They conceive that if funds in aid of local contributions were placed at the disposal of the most intelligent contributors associated for their management in various towns around the coast; who should be made responsible for the repayment, (at the same time being strictly limited in their application,) much good would ensue, by the industry and orderly habits which they must induce; and that they might become the basis of a more enlarged loan system for general purposes, connected with Savings' Banks and Benefit Societies, and then solely depend on the capital deposited by individuals.

"To encourage the formation of local committees for managing such Loan Funds, it has been proposed to the Commissioners—and they think it right to offer the suggestion here—that money for Loans should be advanced on the security of each individual associated; that legal power should be given to the associates to take as securities, the unstamped notes of the borrowers and their bail, (as in the case of Charitable Loans,) recoverable if requisite, by summary attachment of property, from local jurisdictions. If such institutions were established, it would be necessary to control them by occasional investigations of accounts, by the publication of transactions, and by limiting the application of the funds (while aided by Government) to specific purposes connected with the Fisheries."

**FISHING AND CURING STATIONS.**—"Among the various interferences with the fishing trade, heretofore adopted, the establish-

ment of villages and towns, on the coast of Scotland, for the accommodation of those engaged in the business, is believed to have been productive of the greatest and most permanent effect. For the purpose of thus colonizing the remote shores of that country, the British Society was incorporated; and to the exertions of this Society, consisting principally of Scotch landlords, Wick, in Caithness, (among other stations,) owes its existing condition. On that spot, the Society, with the aid of Government, built two harbours, with every desirable convenience for the landing and curing of fish. The number of inhabitants, at first not more than 1,500, has been gradually raised to 10,000; most of them more or less directly engaged in the Fisheries. There, traders assemble every summer, with capital, to purchase the produce, and with materials to preserve it, on a scale which insures the production of a good and cheap article. Thither, consequently, are drawn fishermen from the south of Scotland, and even from England, to pursue the Herring fishery during the season. Wick has thus been rendered the great seat of the North British Herring Fisheries, and a centre of commerce to the surrounding districts. One principal benefit arising from this effort, is the complete separation of the two trades of curing and of taking; by which not only the usual advantages of a division of labour are secured, but also a sure and steady supply of salt, and a co-ordinate reward for the fisherman's labour: two invaluable *desiderata* on the Irish coast. Previously to the establishment of this and the other fishing stations of Scotland, the fisheries of that country were in the same helpless and inefficient state in which they are now found in the north-west of Ireland. There, were to be seen the same poverty, the same absence of skill, and of the best instruments of labour; the same periodical famines, and the same scanty, yet apparently superabundant population; on these grounds, it has been thought that the Scotch project is well worthy of imitation in Ireland. The antecedents being in both cases identical, the same success is by many anticipated in the one, which has been realized in the other. For the accomplishment of this end, too, experience has proved that a very large outlay would not be necessary. The great danger incurred by the Society, says Mr. Loch, arose from a tendency to over building; while little more is really required to put the curer in motion, than a station for his work, and a weather-tight shed for his salt and barrels.

"That the establishment of curing stations on favourable positions of the north-west coast of Ireland, would give the Fisheries their best chance of a speedy development, the Commissioners are strongly inclined to believe; but they are at the same time bound to declare, that they do not anticipate an immediate sequence of all those important results which attended the labours of the British Society."



They conclude by observing, that in the domestic market must be found the vent for additional production. That great quantities of fish taken were lost for want of these stations—which, if established and well appointed, would “avert the recurrence of an evil so extensively injurious, which not only deprives the fisherman of a reward for his industry, but renders an important article of diet unfit for use.”

FISHERY CORPORATIONS AND COMPANIES.—The well-known difficulties and evils attending their working are adverted to, and the remarks on this head closed as follows:—“As parts of a grand plan of national encouragement to the fisheries, the Commissioners are bound to speak of such speculations according to the experience of the past, and to hold out but small hopes of their eventual benefit; if any success is to be expected through their operation, the associators must confine themselves to the business of curers and exporters. Limited to such mercantile operations, they may succeed; while by affording employment to the fishermen, they would be productive of at least temporary good. But if they extend their activity to Fishing, (a business peculiarly dependent on individual enterprise, skill, and care,) they will but diminish the activity and impair the morals of the fishermen hired, and eventually leave the fisheries in a worse condition than that in which they found them.”

SUMMARY OF REMEDIAL MEASURES.—“It is probably expected that some great proposition for a sudden improvement of the Irish Fisheries will originate with this Commission; but whatever disappointment may arise from the confession, the Commissioners feel it a duty to declare, that the result of their most anxious inquiries is, a full persuasion that no means can be proposed for obtaining, by any short process, so desirable an event. The progress of a gradual improvement may indeed be assisted and hastened by certain measures, in which the Government might beneficially co-operate; but a real and permanent prosperity can only be effected by the hearty endeavours of individuals and bodies, locally interested, who, from good motives, or trading enterprise, may seize favourable opportunities and apply means for the purpose. The Commissioners, therefore, cannot recommend that the Government should take a part in any other remedial measures, than those embraced by the following propositions:—

“1st. That in order to remove many vexatious doubts on the laws as they at present exist, every act in any way relating to the SEA FISHERIES of Ireland be totally repealed, and that all provisions deemed necessary, be embodied in one statute.

“2nd. That the chief superintendence and control of all matters connected with the Fisheries be vested in some Public Department, which shall make an annual report of its proceedings, to be laid before Parliament.

"3rd. That the jurisdiction of the local Magistracy in maritime counties, be extended to Offences committed by fishermen at sea; and that it be made the duty of the coast guard as a marine police, to aid the magistracy and the Superintending Authority; so as, without much increased expense, to enforce the law, and carry into effect such regulations as the latter body may from time to time adopt.

"4th. That agreeably to the enactments of the 48 Geo. III., cap. 110, sec. 8; of the 55 Geo. III., cap. 94; and of the 59 Geo. III., cap. 109, sec. 51,—a Government Vessel be furnished at the requisition of the superintending body, at such times and places as may be deemed necessary for the protection and assistance of the fisheries; and that a competent authority for the preservation of the peace accompany such vessels.

"5th. That the superintending body be empowered to institute, or, on requisition after public notice, from persons interested in the Fisheries of any particular district, to adopt and confirm any local Regulations which they shall consider as decidedly salutary, either for the due conduct of the fishermen, for the preservation of the peace, or for the protection of the fisheries.

"6th. That such further pecuniary aid be given for the construction and maintenance of any piers, harbours, and other Public Accommodations, as may be deemed requisite to the service of the fisheries; that provision be made for the repair and maintenance of all those which have been provided entirely or partly at the public expense, and may be thought worthy of being preserved—that they shall be declared public property; and that power be given to frame and enforce such rules and regulations as may seem desirable, in order to render them as generally useful and available as possible.

"7th. That the balance which shall remain to the credit of the Irish Fisheries, after defraying the charges to which it is now liable, be applied under the authority of the Lords of the Treasury, in the completion and repairs of such of the existing fishery piers as may be considered deserving of attention, and in promoting improvements generally in the fisheries.

"8th. That section 85 of the 1 & 2 Wm. IV., cap. 33, be so modified that the funds placed by that Act at the disposal of the Board of Works, be rendered not only available to the construction of any pier, shelter-harbour, boat-slip, or capstan, but to the providing of moorings and small harbour lights for the fisheries, to the extent of one moiety of the expense, the other moiety to be raised by voluntary contribution of proprietors, fishermen, curers, or others, or by public assessment; that the existing condition, which requires security to the crown for future repairs be removed; and that it shall be competent to the board, at discretion, to admit, as a substitute for money contri-



bution, an equivalent value in materials or in work applied conformably to a previously approved plan.

“9th. That it shall be competent to cess-payers, rated at above annually in any County, Barony, Half-barony, or Townland, to assess the locality in such sum as may be necessary for making up a moiety of the expense of the works specified in the preceding proposition, or of any portion thereof; the assessment to be distributed over a number of years, proportionately to the amount.

“10th. That power be given to establish moderate tolls, to defray the necessary expenses of maintenance of each Pier or Harbour erected for fishery purposes, either in whole, or in part with public money; and if the amounts arising from such tolls shall exceed the sums required for the permanent repair of the works, that such excess be allowed to accumulate to the credit of the work, as a provision for those sudden and extraordinary casualties to which such works are liable, and for the further improvement of the harbour.

“11th. That it be competent to the Board of Works, at discretion, to make short Lines of Communication between such piers, fishing harbours, or stations, (as have wholly or in part been erected, or shall be erected, by public funds,) and the nearest high roads; a moiety of the amount so expended to be levied on the barony by annual instalments or provided by voluntary contribution.

“12th. That in cases where Loan Funds, under the management of local associations shall be established, to assist the fishermen in procuring, repairing, or fitting out boats intended for the prosecution of the fisheries, a moiety of these funds shall be supplied out of the public money, (to be sufficiently secured in the repayment by the associators requiring that aid,) that the same legal privileges and indulgences be extended to such associations, as are given to charitable societies, under ‘the Charitable Loan Acts;’ and that the proceedings and accounts of these associations shall be at all times subject to the scrutiny of the controlling body, under whose management the general interests of the fisheries may be placed.

“13th. That such local Loan Funds be encouraged in each of the maritime counties, to assist fishermen.

“14th. That Loans, not exceeding a moiety of the expense, be made by the Board of Works, on the most favourable terms, to parties desirous of erecting curing-houses, fishery-yards, salt-stores, or fishermen’s houses, under proper security for their accomplishment, according to plans previously approved; provided the expense, in any case, shall not be less than two hundred pounds.

“15th. That tenants in tail, and bodies corporate, be empow-

ered, notwithstanding settlements, or incumbrances, to make Leases in perpetuity, at the full improved value, of any portions of Land required for fishery purposes, adjacent to the shores of Ireland: such leases to be valid, provided a sum equal to five years' rent be expended in good and substantial buildings on the land, within seven years.

"16th. That the section of the statute of Charles the First, securing to the Public a right to the use of the strands and wastes on the shores of Ireland, for fishery purposes, and conferring a complete freedom of fishing on all British subjects, be clearly established by a further enactment.

"17th. That a Practical Education in the manufacture of nets, and in other fishery avocations, be adopted in the national schools of the maritime districts of Ireland."

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## CHAPTER XII.

### SUGGESTIONS FOR THE IMPROVEMENT OF THE IRISH SEA FISHERIES.

THE shores of Ireland are remarkable in a geographical point of view—indented as they are with so many deep creeks and havens and spacious bays. The advantage which this country possesses in her insular position for maritime purposes is therefore enhanced by the gift of an extraordinary range of coast as compared with her limited area. A consideration of this circumstance will direct attention to the fact, that Ireland is surrounded by an accessible and almost boundless supply of food, offering an auxiliary means of employment, and a fertile source of wealth.

Without entertaining speculative ideas, or attempting to magnify the importance of Sea Fisheries on many grounds which appear in reflecting upon the subject, such as their commercial value—their capabilities as a source of livelihood and subsistence, or as a training nursery for seamen—it is sufficient to remark, that, with the known extent of the natural supply, the density of our population, the accessibility to markets, (latterly improved by railway communication,) and the facilities now existing for commerce—these resources would apparently have promised a certain and lucrative trade. It might indeed have been imagined that Ireland would not only furnish an ample stock of Fish for home consumption, but a superabundance sufficient to meet an extensive foreign demand. Yet, instead of Ireland being a great fish-producing and fish-exporting country, the fact is the reverse; the quantity of the commodity taken round her coasts falls short of the requirements even of her own inhabitants,—and during the height of the late terrible Famine, when it might have been



thought that a people curtailed in the fruits of the land would have availed themselves of those afforded by the sea, one of those anomalous contrasts so frequently occurring in the history of Ireland was presented—the implements for capture were powerless in the hands of the poor—the food itself rotted in masses for want of the means to preserve it, and the country obtained its chief supply of an article, the use of which is enjoined by the prevalent creed, from the industry of another people.

The misery of the people of Ireland, “starving in the midst of plenty,” is not less proverbial than the fertility of her soil, nor the abundance in her waters less apparent than the absence of power to enjoy it. The cry of destitution moans incessantly over the land, like the murmur of the waves on the shore.

How to alleviate so chronic an endemic of wretchedness—to remedy those ills that “Kings and Laws *can* cure,” deserves the anxious investigation of all who, in a spirit of Christian charity, would wish to aid a people that are now the most helpless in Christendom. There are in Ireland many men who gladly see in the policy of State the remedies of a physician displace the practice of a surgeon, and who, in the words of early writers, would remind England that her military occupation of this country has “cost her more than would buy the whole island twice over.”

They gratefully acknowledge the increased outlay of national funds, and the advantageous policy of making advances and loans from them, for the promotion of the chief elements of public accommodation, security, and advancement—in Railways, Harbours of trade, and refuge, and other works of public utility—for Colleges and Schools, and for the permanent improvement of Landed Property. By such means the need will surely be best prevented for additional poor houses, gaols, and barracks. They hail also all measures which will unfetter legal impediments to a better cultivation of the soil, and to the investment of capital in it; but look forward, above all, to such as will provide a fuller system of EDUCATION and INSTRUCTION. Acknowledging that property in this country ought to bear an equable share of taxation with that of Great Britain, they would also be willing that it especially supported auxiliary means for National Education, in all its branches, upon which the security of property in Ireland really depends. Yet how far is the insecurity chargeable only to her own sons? But without the wish or the power to strike a balance of the account between the two kingdoms, they would not be dependent on English or Scottish men, save for good Laws and for even-handed Justice.

The attention of the imperial legislature must for many years be strenuously drawn to the condition of Ireland. England may turn aside to home requirements, to her foreign relations,

and to her vast colonial possessions,—but the sunken fortunes of a people—still suffering the effects of a long course of national injustice and vicious government, signalized by unparalleled calamities, and linked in internal policy to her own institutions, will now and again press on her like the girdle of iron worn by the penitents of old.

Looking to the extension of the entire Fisheries, both Sea and Inland, on a broad scale of public advantage, as a general principle Ireland does not so much require aid from the Treasury as sufficient laws from the Legislature to encourage enterprise, whether on land or by sea. The changes now on foot in this respect must produce prosperous results.

The prospect for the improvement of a resource Ireland possesses to an extraordinary degree, is at this time become of serious import. In the deficiency of some of those vast sources of wealth—coal, minerals, agricultural capital, and manufactures—it becomes a national obligation to make the most of natural advantages—a duty to see “that nothing be lost.”

The old policy of England in discouraging the exportation of produce from Ireland, whether manufactured or natural, and some jealousies of rival traders, have happily ceased. Unable to compete with the sister countries in the production of manufactured goods, the Irish people must earn *their* food by supplying it to others.

At this period of fearful change—when the land is rapidly deteriorating in value—while our farmers are daily either becoming impoverished, or leaving our shores—our poor perishing from prolonged distress, and the rich sinking under a pressure of adversity—the fate of all “trembling in the balance”—it is a paramount duty upon our rulers to foster and enlarge the means of life to a nation afflicted by “a desolation wider than any recorded in history, or shadowed forth by tradition.”\*

A degree of excitement appears to have attended the question of the development of Fisheries in all countries, and to pervade most writings upon the subject. This has often led to injudicious efforts, intended to stimulate, but in the end practically injurious.† The cause would seem to proceed from the nature of the Resource, of the value of which exaggerated views may be formed,—but, while undoubtedly as inexhaustible as the element in which fisheries are prosecuted, its extent, and the circumstances of the subject generally, are equally uncertain. Who shall measure all

“The close earth wombs, or the profound seas hide  
In unknown fathoms?”

\* Fourteenth Report of the Select Committee on Poor Laws, Ireland, 1849, p. 301.

† Inquiry of the Wexford Landlord and Tenant Association into the county Wexford Sea Fisheries, 1847.



Hence it is that failures in practice come in miserable contrast to the sanguine hopes held forth.

While all persons readily acknowledge the "abundance of the resource," and the advantages that would attend prosperous fisheries, these generalities are seldom followed by exertion. Valuable and humane efforts have been made in several instances to promote local fisheries—attended with more or less success: but, as a department of national industry in which the State may usefully assist—opinion seems to have taken a contrary direction to that formerly entertained, and there is unquestionably much room for hesitation.

During the inquiry into the condition of the Irish Fisheries by the Commission of 1835, a paper was composed by one of its members, the late Sir Charles Morgan, as "an Historical Sketch of the British and Irish Fisheries," and appended to the Report, tracing the causes why the exertions made to raise them by successive governments and by individuals had proved ineffectual, and giving a compendium of the measures adopted. The employment of the fisherman—the article of *produce* paying no rent, fish being a free gift of nature to the captor—might, he observes, "be thought fully equal to take care of itself, and to require no *encouragement* to call it into activity. It is therefore not without surprise that the inquirer learns the vast efforts made by powerful nations to create a Fishery, and so often made in vain." The solution of this seeming paradox he considered to "lie in the perishable nature of the commodity, and the consequent disproportion between the cost of taking, and that of preserving and conveying it to the distant market. To transport fish in a fresh condition, so rapidly enhances its price, that, at a small distance from the sea, it becomes an article of luxury; and its market is restricted accordingly. The inferior kinds only can be generally offered for sale at prices which permit their being used extensively as articles of ordinary diet; and these are so inferior in nutritious qualities, and so much less exciting to the palate than animal food, that the people who can afford to purchase meat, will not largely consume them."

May not another cause of ill-success consist in the various uncertain circumstances connected with a fisherman's calling—and in the fact that it depends more than others upon chance?

The sea may be said to be a lottery, the prizes from which are sometimes more injurious to industry than the blanks. Whenever a business partakes of the spirit of risk\*—when

\* With regard to the Sea Fishery, the anomaly is not a little curious, that the prosecutor should continue a branch of industry which does not yield a steady or adequate remuneration; yet, I apprehend, that this will be found to characterize all speculations of a hazardous nature, and that such a contingency enters more or less into the calculations of those who embark in it, whilst the

profits are not the slow but secure returns for unremitting diligence, a species of demoralizing influence takes place in the mind, and especially wherever ignorance or superstition exist. Poverty is a charge that has been brought against Fishermen in all ages of the world.\* The improvidence of many in Britain and Ireland who rely for their livelihood upon their own management is observable. They may be relieved from some blame by the reflection that this often proceeds from the uncertainty of their employment—its prosecution waiting upon favourable weather, and its good seasons on fortune—accessaries beyond the reach of control. An avocation thus dependent must be occasional; it is followed or abandoned at will. With some it becomes, unhappily, the cause of idle and bad habits; while its larger gains, resulting partly from accident, are often productive of temporary extravagance, and consequent distress. In some districts, where the fisherman is also a farmer, the cultivation of the land interrupts his other pursuit, and a steady application cannot be given to either. The fact that the property to be taken is commonable renders it liable to abuse;† and from the same cause—as no one receives rent from its gains—it proceeds, that neither itself nor followers obtain the care that is extended where interest arises. Again,—the precarious sale of a perishable commodity,—the cause where good markets exist of the remarkably vehement language between producer and buyer,—is, in remote districts, dispiriting to the former. Where demand for the fresh article alone can be found, it is one of those trades which are liable to be in an unhealthy state, as supplying merely an article of luxury. The prevalence of certain epidemics also affects it. During the cholera the demand for fish was greatly diminished. The want of shelter for craft, and of those appliances which can be arrived at by local exertions, in some instances forms another impediment.

Let us hope that the cure will be found wherever it is sought, in reducing these various concomitants, as far as possible, within the bounds of certainty, and that endeavours will be made to solve this problem. It is to be confessed, the subject is one calculated to engage our feelings, but at the same time the understanding must be enlisted. Under the present circumstances of Ireland it is not too much to say, that, for the better development of her shore fisheries, some exertion on the part of all concerned is requisite, and greatly to be desired.

A step may be advanced towards the discovery of remedies,

feeling of hope is always kept alive.'—*Observations on the Fishermen of County Cork*. By the Rev. Michael O'Sullivan: 1836. Appendix, p. 141.

\* Article on the Fisheries of Ireland, *Dublin Review*, 1837.

† Much evidence will be found in the Report as to the destruction of spawn by the improved methods of Sea Fishing, and of the sale of fish with the roe in a ripe state.



by inquiring into the defects as well as the wants, of so important a branch of industry.

These remarks apply mainly to the Fisheries around our Coasts. Those of the Deep Sea are of a different description. The banks on which the fish are taken lie generally at a distance of some leagues from the shore. Carried on from convenient harbours, large boats and some capital are required. To these the minor branches send their hardier and more enterprising seafarers. Intrepidity and conduct are necessary, and the character of the men engaged in them rises with the nature of the pursuit.

The Parliament of Ireland endeavoured to give an impetus to her Deep Sea Fisheries by pecuniary encouragement, through the instrumentality of tonnage bounties. These were continued after the Union, and large sums of money were devoted to the purpose; but although creating an activity in the trade, its true interests were injured by the frauds and evasions to which the system gave rise. It was also ill calculated to serve the fisheries generally, being confined in operation to larger vessels, the owners of which ought to be independent of such assistance. The system of bounties was ill-conceived, and ill-adapted. It led to gross jobbing, and other abuses. Any stimulus which may be given through the medium of the State ought to proceed in a more natural direction, in furthering local and individual exertion.

An unwarrantable interference with every department of industrial occupation, by minute restrictions or injudicious aid, is most detrimental; but a reasonable control and assistance may be looked for under peculiar circumstances. May not the policy of '*laissez faire et laissez aller*,' wisely pressed upon the minister Colbert by the merchants of France, be incorrectly applied with regard to an employment which requires the enforcement of restrictions to prevent damage to a common good,—is dependent on public accommodations,—and slenderly attached to local property, and is one in which capital does not readily embark? Sir Charles Morgan, after reviewing the facts relating to the repeated failures of successive efforts to create a domestic fishery, both in Great Britain and Ireland, closes his narrative with these remarks, which are heartily concurred in:—“By some these failures are attributed to errors of management, and to a premature abandonment of the measures of encouragement; and the averment perhaps may be partly true. But it is impossible to overlook the fact, that amidst all the efforts of Government, and the popular enthusiasm in favour of Fisheries, they have not been a favourite speculation with capitalists, so that mercantile enterprise has been far from going

hand in hand with administrative liberality. To this statement the Scotch Fishery alone affords an exception. What inference should be drawn either from the rule or from its exception, the reader will determine for himself; but it does not seem too much to affirm on experience of the past, that whatever value to individuals may be set on any assistance which Government may hereafter think right to afford the fishermen, through any better-directed system of encouragement, the trade must still eventually stand or fall by the spontaneous efforts of the parties interested, and the stimulus of remunerating markets."

Since the above observations were written many circumstances have arisen in Ireland that affect the question. Facilities for the distribution of fish have increased, by the formation of numerous roads, and by means of transit by land and sea through the agency of steam. An unprecedented famine has desolated the western parts, compelling the fisherman to part with the implements of his trade, and obliging him to enter the Poor-house. A concurrence of the potato failure and the low price of corn, renders the cultivation of small portions of poor land an employment which many would gladly relinquish, to devote themselves exclusively to fishing, if the requisite means were available. Yet an occupation such as coast-fishing, necessarily scattered, unusually insecure, the profits of which yield no immediate revenue to the lords of the soil—will hardly be locally fostered without the aid of external assistance. Our fisheries of the deep sea will probably attract additional capital, but those less favourably circumstanced will rarely do so, save perhaps in the formation of a few isolated curing stations.

Turning to the encouraging example of the Scottish Fisheries, we find that these prosperous settlements on the coast proceeded from the desire of great chiefs of clans in the Highlands to relieve the land population, and to organize a productive division of labour. "The British Fishery Society," formed in 1786, has effected great and permanent improvements in parts of the north of Scotland, previously in as depressed a condition as portions of this country. In the formation or improvement of harbours it was aided by Government grants, but all other works, "roads, houses, curing-houses, and the settlement of fish curers, through whom the home and foreign markets have been opened to the industry of the people, have all been accomplished at the expense, or through the exertions of the landlords."

The amount of paid up capital of the Society is £28,277 10s. 8d. Only six dividends of £2 per £50 have been declared during the sixty-two years that the Society has been incorpo-



rated.\* All the profits were regularly added to the fund, *direct* pecuniary returns never having been looked for by the members of the Society, the improvement of the Highlands being their paramount object.

The letters printed in the appendix to the report, from the town of Wick, the chief fishing station on the east coast of Scotland, the population of which increased in a few years from 1,500 to near 10,000 persons, [*Evidence*, p. 196,] exhibit the fact, that beyond the mere rent of the town buildings, considerable advantages had accrued to the surrounding country from the rise of a thriving trade. The Society prudently left all the minuter details connected with the prosecution of the fishing business to private enterprise and care. In some places an immediate stimulus was given simply and cheaply by the settlement of curers of fish, and these men found it to be their interest to advance requisites to the fishermen.

The only real property now belonging to the Society is its establishment, and lands, and feu-duties, at Pulteney Town, and the quay at Tobermory, which was reserved at the time of the sale of the Society's estate there. The Society's funds vested in Government Stocks, and balance with bankers, &c., may be stated in round numbers at £20,000. The annual feu-duties and rents of the landed property at Pulteney Town, amount to about £785.†

It would be impracticable to estimate, with accuracy, the returns, direct or indirect, which have been made to the members of the British Fishery Society from their outlay. Success has unquestionably attended the objects for which it was formed. The Secretary to the Board of Fisheries in Scotland, writing in 1848,† in deprecation of any measure of interference as to the construction of boats that might check the fishing trade, alludes to "the inestimable importance of the fisheries to the welfare and sustenance of so poor a country as Scotland, carried on as they are in its poorest and most unproductive districts; in fact, forming the only harvest for large masses of the population."

Although there are impediments arising out of the constitution of the Poor Law, and difficulties connected with the surrender of land and houses in Ireland, needing only to be adverted to, which would operate adversely,—as similar motives influence the owners of landed property in every country, Irish landlords may be actuated to form a Society for the same objects. That founded by the Act of 1786 was incorporated as the "British Society for extending the Fisheries, and improving the

\* Statement of James Loch, esq., M.P. Report of Commission, 1836. Appendix, p. 62.

† Report—Fishing Boats, Scotland, 1849, pp. 15, 26, 59.

sea-coasts of the kingdom ;” with this the improvement of the interior went hand-in-hand, and was—as has been seen—the primary consideration. Whether exertions in these directions ought to be aided by the State is a question in political economy.

To the objection that loans from Government are not extended to other undertakings, it may be observed that some points of difference occur. Among these may be mentioned, the recent alterations of the law on the faith of which contracts between the owners and occupiers of Land were based ; also, that certain undertakings with respect to land, for which loans obtained through the intervention of public securities may be advanced, do not possess such speculative character as would render them an insecure investment ; and that this species of real property, (from which local taxes are principally raised,) is capable of giving adequate security, and is one in which permanent works can be encouraged by a machinery for charge and repayment not available to private persons. The Land Improvement Act recognises the principle of loans, through the medium of the Government, for the general advantage of the country, and to provide employment for the labourer. Its extension to the erection of farm buildings, the plant of agricultural manufacture, under particular circumstances and proper arrangements, would prove an important addition to the benefits conferred by its operation. Perhaps it is not impracticable that its simple and tried system may be applied to the service of the sea coasts. If so extended, an attention and exertion may be aroused, without which hope of success can hardly be entertained. Charity, self-interest, and the science of political economy are to be combined in the formation of a principle of action. Is not the virtue the better part ? and is it not best exercised in Ireland by enabling the labourer to work ?

The Pagans of Greece and Italy granted immunities and rewards to some men, because they had contributed towards the gratification of the prevailing taste for fish among the rich, either by their inventions or industry. The states of Christendom may be exhorted to foster an art, because it contributes to the sustenance of the people.

By referring to the “Suggestions” directed to the Commission of Inquiry of 1835, which are printed in the Appendix, it will be seen that it was contemplated at that time to adopt expedients for the benefit or relief of the poorer class of fishermen, who might be injured by the intended removal of restrictions on improved methods of fishing, of which they had not means to avail themselves.

A Poor Law for Ireland was then under consideration, and was passed in 1838, the second year of the present reign. It



has been shown that the owners and occupiers of land, upon whom the burden of that law falls, are not directly interested in the prosecution of sea fishing; nor can they be deemed answerable for the consequences of insufficient employment in the sea, as they undoubtedly are, to an extent, for those arising from its want on their own properties. It is also to be feared that the effects of that law, may even, in the case of small properties, deter the owners from encouraging a settlement of fishers.

By referring back to the fourth chapter, (page 31,) it will be seen that the Remedial measures recommended by the Commission of Inquiry were adopted in the Bill of 1838, but were omitted in that of 1842.

The rejected recommendations were the

8th. For providing several matters of Fishery and public accommodation; one moiety of the cost to be raised by voluntary contributions, or by assessment.

11th. For making short lines of roads, near piers, harbours, or stations; a moiety to be raised on the district, or provided by voluntary subscription.

12th. For the encouragement of Loan Funds.

17th. For providing Practical Education in matters connected with Fishery avocations.

These measures were recommended by the Commissioners after cautious deliberation, as those in which Government might take part. Whether their adoption is called for and warranted under the existing circumstances of Ireland is certainly deserving of consideration.

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#### NOTES.

ARTHUR YOUNG closes his remarks on the Fisheries of Ireland with the following passage. He attributed their neglect to want of capital, and remarked that the measures of the Legislature had not been attended with any considerable effect, and instanced the mischievous effects of bounties:—

“Before I quit this article of Irish fisheries, I shall observe, that next to the cultivation of land there is no object in their national economy of so much importance. No manufactures, no trade, can be of half the consequence to Ireland, that many of her fisheries might prove if encouraged with judgment. There is no undertaking whatever in which a small capital goes so far; nor any in which the largest will pay such ample profits. Scotland has the herrings somewhat earlier, but they come in good time to Ireland for the Mediterranean trade, and in a plenty that ought to make their capture a favourite object. The bounties hitherto given have been so far from answering that they have in some respects done mischief. I was present more than once at the meetings of the fishery committee of the Irish House of Commons, and I found them making anxious inquiries how to avoid great frauds, from which I found that notorious ones had been committed.

"This is the great misfortune of bounties when they are not given with great judgment and care. Relative to the fisheries the profit is so great, that all acquainted with them will engage as far as their capital will admit; whatever bounties are given therefore should not be with a view to instigate men possessed of capital, for they do not exist, but to put capitals into the hands of those who will certainly make use of them. It appeared in the minutes of the Lough Swilly fishery that one boat and the nets sufficient cost £20; the best bounty would be to give boats and nets to men used to the fishery, because few are able to buy or build them. To give a premium on the report of the herrings or upon the tonnage of the boats will not answer, for it supposes them actually taken, and built, that is, it supposes the very difficulty got over which want of money makes perpetual.

"Before the boat is in the fishery it must be built, and before the fish are exported they must be taken; those who have money to do either will go to work without any bounty, the profit alone being sufficient. In countries so very poor, the first steps in such undertakings are the most difficult; and to assist in overcoming the early difficulties is what the Legislature should aim at. Giving boats and nets to men that would certainly use them does this, and would be productive of great national good; always supposing that frauds and jobbing were guarded against; if they are permitted to creep in, as in giving spinning wheels, the mischief would be far more than the benefit. £20,000 per annum thus expended would give 1,000 boats, which would soon accumulate to a vast number, and if the effect was so great as to find the herrings regorge in the home market, then would be the time to drive them out by a bounty on the export, if their own cheapness did not bring the effect without it. I am far from recommending a new system of bounties upon an object that had not received them before, they have been long given or jobbed, all I mean is, that if the public is burthened with such payments, care should be taken that they are given in the mode that promises to be most advantageous."

LOAN FUNDS.—"General conclusions drawn by Messrs. Townsend and Barry (two of the Commissioners of Inquiry), from the information received through the medium of evidence; and the answers to the printed queries, as well as from their personal observations on their tour of inquiry."—[*Printed in the Appendix to the Report of 1836.*]

"That the resource derived from the Loan Fund of the late Fishery Board was, in most instances, admitted to have been extremely beneficial to the fishing classes.

"That wherever a reasonable degree of caution was exercised in the administration of the fund, and of diligence in its final collection, the smallness of the loss was most extraordinary, as in the cases of Dingle, Glandore, and Baltimore, where out of a sum of £2,022 17s. 9d., due at the period of the extinction of the late system of encouragement, £1,870 1s., was within the following year repaid to the department under whose management it was collected.

"That it is very generally considered that the system under which the fund was managed, both as to the periods for which the loans were made and the mode of making them, was extremely defective and objectionable.

"That the beneficial effects of a judicious system of general loans to



the poorer classes in Ireland have been most incontrovertibly established, and may be particularly illustrated by a reference to the city of Cork Charitable Loan Society, whose losses upon advances of £38,520, to 12,840 families have amounted in six years only to £8 17s.; also by a reference to the Gorey Loan Fund, county Wexford, and the Courtmacsherry and Lisle Loan Funds, in the county Cork; in each of which places a considerably increased capital could be worked.

"That the difficulty of obtaining proper encouragement in remote districts is the most serious obstacle to the advantageous establishment of loan institutions; and that local co-operation, and local contributions towards the expenses of management, are so desirable to insure the successful working of such institutions as to render it prudent to make them indispensable conditions to aiding the formation of such funds.

"That the operative fisherman could well afford to pay for the accommodation afforded to him by small loans, a consideration so far exceeding the ordinary rate of interest at which money may be procured by the Government, as to form a fund in aid of local contributions, sufficient to cover losses and the expenses of management.

"That it is not reasonable to expect from the Government more than co-operation in providing the funds and in exercising a salutary general control over their administration.

"That it is desirable, if only for the purpose of insuring judicious and honest management, either to require security for the reproductiveness of the fund, from the intermediate sources of its administration; or, in cases where that may not be possible, to devise some other means to guard against mismanagement or misappropriation by irresponsible persons.

"That the advantages of these establishments would be materially increased by rendering them depositories for the small savings of the industrious classes: and that each establishment may, by being furnished with the forms and models for the institution of a benefit society, or sick and widows' fund, or Boat Insurance Society, become a nucleus for producing industrious, moral, and provident habits, and for improving the condition of the coast population generally."

**SUCCESS OF A LOAN FUND.**—From the time when the storm of famine first broke over Ireland, while none could doubt the hand of visitation, few hesitated to believe but that all would work together for good in the end. Amidst appalling scenes of mortal anguish and distress, heart-stirring energies were called forth in many directions, where the benevolent and the good stood forward in the noble work of exertion. In this cause, many priests of the Roman Catholic persuasion—who devote themselves to the service of their church and people—were conspicuous, while as a body they helped to sustain that exemplary patience under hunger and deprivation for which Irishmen are so remarkable in history. Ministers of the Protestant Church proved, in numerous instances, the value of their services to their parishioners at large. Among the foremost in the cause of charity, the Society of Friends has always been conspicuous. The seed they sowed with a liberal hand fell on fruitful ground in one instance. Amongst numerous urgent applications for aid received by them, was a pathetic appeal from the Minister of Ring, a maritime parish on the coast of the County Waterford, situated at the western side of Dungarvan Bay,

and extending from the Slievegrine mountain to the shore. Besides a large scattered population, this parish contains the three fishing villages of Helvick, Ballinagoul, and Ringagoonah, peopled by between two and three thousand persons, a hardy race, depending chiefly for their support upon fishing. Supplies of food were sent to them, but the Society soon became sensible, that although gratuitous relief was indispensable to save the famishing, unless assistance by means of industrial employment could be rendered, little, if any, permanent benefit would be effected.\* To induce the fishermen to resume their accustomed occupation, which besides affording profitable employment, would likewise bring in an additional supply of cheap nutritious food, it was suggested that perhaps loans, to be repaid by small weekly instalments, might be a judicious mode of assisting them. The Rev. Mr. Alcock, the philanthropic promoter of the relief, undertook to give his personal co-operation, but at the same time expressed a fear as to repayment, for the fishermen were so reduced to poverty, as to have parted with their nets and gear to buy food, and some of them had even burned the oars of their boats, for want of other fuel.

‘So many unsuccessful attempts,’ as is remarked in the plain statement of the proceedings adopted, (*‘Facts from the Fisheries,’* Waterford, 8vo., 1848,) ‘have been made in years past, to promote and encourage the Irish Fisheries, that in making a fresh effort of this nature, the Committee considered it needful to commence upon a very moderate scale; and in forming regulations for conducting it, to be principally guided by those fundamental principles which so powerfully and universally influence human action.

‘With these views, although the crews of upwards of one hundred fishing boats were anxious to obtain assistance, it was concluded to be the wiser and more prudent course, to begin only with fifteen; it being at the time intimated to the others, that if these proceeded satisfactorily, and paid up regularly, the number would be increased.

‘In selecting these cases, previous good conduct, sobriety, and industry, were to be the recommendations; and thus at the outset, character, and not mere destitution, was established, and quickly understood to be the passport to favour.

‘The loans, varying from 10s. to £3, were to be expended solely for the repair of boats, and providing fishing apparatus; and whilst provisions were high-priced, a small weekly allowance of meal, as sea store, was given gratis, to each boat’s crew, for a short period.

‘One month after the loan was made, repayment was to commence in weekly instalments of not less than sixpence in the pound. The sums thus received, it was announced, would be immediately re-lent to other parties; and the persons assisted were therefore encouraged to do their part in benefiting their neighbours, by paying in a greater sum

\* ‘The Society of Friends, eminently prominent in their judicious and benevolent efforts to alleviate the distresses of the people, directed their attention to the Fisheries; and in all cases where their proceedings were under the control of their own managers, or where they had the good fortune to find judicious administrators of their bounty, permanent good results have followed.

‘The indefatigable exertions of the Rev. Mr. Alcock at Helvick Head, aided by Mr. Strangman of Waterford, and Lord Stuart de Decies, have produced an establishment which deserves to be ranked very high on our list.—*Report of Inspecting Commissioners, 1849.*



than the stipulated amount, whenever the week's fishing proved successful; and the expectant applicants exercised a salutary vigilance that there should be no undue remissness in the payments.

'In order still further to induce punctuality, and likewise to aid these miserably poor people, without compromising the feelings of independence and self-reliance, which the Committee were most anxious to cherish, it was also stipulated, that if the instalments of sixpence in the pound were regularly paid up for thirty weeks, that is fifteen shillings in the pound, the remaining five shillings, or 25 per cent., would be remitted as a bonus; but any person getting four weeks into arrear, would be disentitled to this allowance; and this arrangement has had a very beneficial effect.

'But however excellent a plan may be in the abstract, experience abundantly shows, that unless the individual who undertakes its management and supervision is qualified for the task, disappointment is oftentimes the result. The accompanying interesting reports (from the Rev. Mr. Alcock), and the valuable suggestions they contain, will fully testify how judiciously and successfully the views of the Committee have been carried out.'

The sum thus lent was £56 2s. 6d., which with £7 from the London Ladies' Association, and twenty barrels of meal, constituted the whole amount advanced. 'With this and the repayments, 178 loans have been made; and the parties thus assisted have, it appears, besides (with little exception) regularly paying up their instalments, been enabled to maintain themselves and those dependent upon them; at a time, too, when in the surrounding parishes the Poor Law Guardians were overwhelmed with wretched objects imploring relief.

'In tenth month, 1847, a deputation from the Auxiliary Committee visited the district, and were much gratified at beholding the happy countenances, the independent bearing, and consciousness of self-respect apparent among the fishermen.

'These poor people, whilst pouring forth their grateful acknowledgments for the assistance given them, feelingly adverted to the severe injury they sustained by the legal restrictions on the use of the trammel net, to which within the last few years they had been subjected. This kind of net is cheap in its construction, inexpensive in working it, and takes a large quantity of fish. Different applications have been made to the Irish Fishery Board for the removal of these prejudicial restrictions, but hitherto without effect—not even the slightest relaxation having been yet granted. In Great Britain it appears there are no such restrictions. On the contrary, this mode of fishing is perfectly free and unrestrained; and it certainly does seem extraordinary why a different course should be pursued as regards Ireland.

'Another great impediment to their success has been the want of a suitable pier to shelter their frail craft from the winter storms. At Ballinagoul they pointed to a rude sort of breakwater, formed of loose stones, that they had laboriously piled together, and which is their only protection, but totally inadequate for the purpose. This subject was therefore brought under the notice of the Commissioners of Public Works; and that Board immediately sent down their engineer to examine and report upon it, and have since agreed to expend the sum of

£1,800 in erecting a commodious pier there for the safety and accommodation of the fishing boats. The preparations for commencing this useful work are now in a state of much forwardness; and it is hoped a considerable portion of it will be completed during the present year.'

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'In submitting these preliminary observations, with the annexed Reports, to the notice of the public, the Auxiliary Committee entertain the hope, that efforts of a similar nature may be made on other parts of the coast,—the main points to be kept in view, being simply to begin on a moderate scale; to select the persons to be assisted from among the most deserving, rather than the most destitute; and to frame the regulations so as to make it the interest of all parties to adhere to and maintain them.

'The Committee further indulge the expectation, that a perusal of these pages may arrest the attention of some influential members of the Legislature, and promote the speedy removal of the prejudicial and impolitic restrictions, which debar the poor Irish fishermen from the free use and consequent advantages of the valuable kinds of net which are in profitable and unrestrained operation in England and elsewhere.

'Much has been said about encouraging the Irish Fisheries; but every reflecting mind must at once perceive, that until there is freedom of action for catching the fish, as well as security for the vessels engaged in it, by the construction of piers in suitable places, it is almost hopeless to expect any great extension, or permanent improvement, in this valuable branch of national industry.

'WATERFORD, 8th Month, 21st, 1848.'

The above remarks were drawn up by the Committee of the Society of Friends. A perusal will reward the reader of the reports accompanying them, from the Rev. Mr. Alcock, the director of this successful mode of relieving his maritime parishioners. The simple narrative describes the pride and increased exertion of the fishermen at the publicity of their success; the general gratitude for the allocation of funds to build a safety pier; the improvements arising in the neighbourhood, such as the establishment of a curing station by two natives of Scotland; and the improved physical and moral aspect of the industrious inhabitants.

**THE BRITISH FISHERY SOCIETY.**—Many suggestions will be found in the Report and Appendix of 1836 as to the formation of a similar association in Ireland. From these the following may be extracted.

'The Government grant of £9,000 for the harbour, laid the foundation of the improvements at Wick; and that grant would have been given as in other instances, to any individual or body, who would comply with the conditions of investing a similar amount in the work. Beyond this the society have sunk no money here; and their feu from Lord Duffers will ultimately be, and is now, a profitable bargain—their sub-feuars and tenants having improved and ameliorated the estate. If in Ireland there is a good and ascertained fishing station, but where from want of harbour and other necessary accommodations, the fishery cannot be carried on to a tenth of the extent it would otherwise be, and that the lord of the manor is unable or unwilling to make those



improvements—then it would undoubtedly be advantageous to raise money by subscription, and constitute the subscribers into a “Society for extending the Fisheries and improving the Sea Coast of Ireland.”

‘An association similar to the British Fishery Society, I conceive might be of essential service to Ireland, provided it confined its encouragement, as in the instance of the British Fishery Society, strictly to harbour accommodation, and the feuing the ground in favourable situations—leaving every other detail connected with the prosecution of the Fisheries to private enterprise.’—*Appendix*, pp. 56, 57.

It is hardly necessary to draw attention to the last observations. The details of fishing business appear especially to require to be left to individual enterprise and attention, and to demand a rigid system of economy. A curing establishment will hardly succeed unless it is the speculation of one person, and a project upon which his livelihood depends. Under the most favourable circumstances, good and frugal management is essential. Notwithstanding the abundant supplies of fish which occasionally resort to the coast, Irishmen have to compete with communities both in Scotland and Newfoundland, who have the advantage of a more certain source, and who are long and well trained to the cure of the article. Fluctuations in the demand must be expected, but should not discourage, when it is remembered that the home market furnishes the largest demand for the fish of Scotland, and that Newfoundland fish is also consumed here.

SEA FISHERIES.—Measures in which assistance or control from the State appear to be legitimately applicable to the Irish Sea Fisheries, in aid of enterprise or of local exertion.

These may be classed under the heads of Public Accommodations, Control, and Instruction.

To the great primary duty of Government, the protection of the community from fraud and violence, may be added that arising from the expediency of affording additional securities for the application of capital and labour, wherever these cannot be expected to be obtained by private outlay, or where individual interest is not sufficient to provide them.

PUBLIC ACCOMMODATIONS.—Safety-harbours and piers have always been recognised as undertakings which cannot be expected to proceed from private wants or enterprise alone, on account of their magnitude, as open to the public at large, and as dependent on the power to levy tolls.

Much has been recently done in the construction of these important objects, on which the extension not only of fishing, but of commerce depends. There are, however, parts of the eastern coast of Ireland on which there is yearly a great loss of life and property, which the formation of two or three harbours might prevent for the future in a great degree.

The Scottish Fisheries on the eastern coast are dependent on good harbours, while those of Ireland are for the most part carried on by shore boats. But the increased development of Deep Sea fishing must await the increase of accommodation for the larger vessels which its prosecution requires.

Sir John Franklin stated in his examination in 1836, that he had lately visited several harbours on the west coast, and found some of the

piers, in the harbours resorted to by fishermen, so badly placed for affording shelter, that he could not account for the selection of their sites, and he observed many sites in which piers would be of importance to all classes engaged in industry. He was then informed that the choice of sites for piers was governed by the locality of the property held by land proprietors undertaking to pay a moiety of the cost of erecting them. In this case an evil arises from the aid being made dependent on 'voluntary' exertion. The land offering the best site may be owned by a heavily-encumbered proprietor, the estate may be under the Court, or the land itself leased.

Mr. Nimmo's valuable survey of the coast of eleven northern counties is printed in the Appendix to the Report.

Mr. Donnell's report on Fishery Harbours is also printed. It is closed with the following remarks on the impolicy of requiring local contributions in all cases:—'However presumptuous the expression of disapproval of a legislative enactment may appear, by so humble an individual as myself, I venture to observe that the clause contained in the section of the Act of the 5 Geo. IV., c. 64, which requires local contributions in aid of every grant, works badly. It has the effect of fixing the construction of harbours on inferior instead of superior sites: local contribution is only to be obtained where the individual subscribing will derive personal advantage; he therefore, in general, proposes the site as the condition of his subscription; and though a preferable site may not be very remote, if local contribution cannot be obtained for it, the Board cannot decide in its favour, but must either submit to grant for the inferior site, or give up the measure altogether. The principle of local contribution is good, but its universal and indispensable application, practically renders the selection of the best sites impossible.'

As an instance of the difficulty caused by this requirement, a case brought before the notice of the Commission may be mentioned. A very enterprising and prosperous fishing community existed at Ballinagoul, on the Waterford coast; the late Fishery Board were so convinced of its importance as to offer to contribute three-fourths of the expense of erecting a pier there, but the proprietors of the soil would not come forward, and although the people themselves offered to contribute in labour, the project was necessarily abandoned.—Page 160.

The Act 9 Vic., cap. 3, allotted a sum of £50,000 for Fishery Piers in Ireland. Three-quarters of the sum required for each might be a free grant, the residue to be secured as the Commissioners saw fit: not to exceed £5,000 in any case. Any person residing, or being proprietor or occupier of land adjacent to the sea coast might apply by way of memorial, praying that such district or place may be examined and the works executed, and undertaking to defray the preliminary survey, &c., should the work not be proceeded with.

The Commissioners are empowered to select any place; also to secure loans upon the county by presentment where a considerable market for fish exists, or rises thereout; or on the district, or on 'lands.' The grand jury may present without the medium of a previous petit sessions. There is also a power to levy tolls.

The assistance given towards these objects is now dependent on private applications. This is not desirable. A broad scheme to guide



future operations is wanted, and also the power to construct any small harbour or pier wherever it is required, and levy a proportion of the cost off the district.

‘Bid harbours open, public ways extend,  
And temples, worthier of the God, ascend;  
Bid the broad arch the dang’rous flood contain,  
The mole projected, break the roaring main;  
Back to his bounds their subject sea command,  
And roll obedient rivers through the land:  
These honours peace to happy Britain brings;  
These are imperial works, and worthy kings.’

LOAN FUNDS, SAVINGS’ BANKS, BENEFIT SOCIETIES, &c.—Although it has been said by a master-observer of human nature that,—

‘Borrowing dulls the edge of husbandry,’

Loan Funds, under careful local management and stringent regulations, are often advantageous in supplying the wants of many minor callings, whose operations require the advance of a little capital, or are subject to vicissitude. Reference may be made to the success of many of these auxiliary societies in Ireland, and especially to that established by the Society of Friends at Ring. The recommendations of the Commission of Inquiry, and the report at page 132, may also be referred to.

SAVINGS’ BANKS are the best reverse of the loan system. They might, perhaps, be made to co-operate, and support a loan fund. Government has recently introduced a measure for an adequate supervision and control of these institutions. They require legal restrictions, and a certain amount of interference, to give them that security without which they may rob the provident, and become a hollow cheat. It is one of the primary duties of the State to protect the community from fraud.

REPAIRING FISHERMEN’S BOATS.—It is questionable if *grants* of money for this purpose, as practised in Scotland, proves a healthy mode of aiding fishermen. The Commissioners for the British Fisheries, in their report for 1847, state:—“The grants thus made, though small in amount, have been of great benefit to many a poor fisherman, by enabling him to fit out his boat for the fishery, which otherwise he could not have done; but the Commissioners again refer to the opinion expressed by them in former reports, that this annual grant might be applied in a more beneficial manner in the formation of prudential Societies for the Relief of the poor fisherman.”

BENEFIT CLUBS.—Difficulties are experienced in England in obtaining a permanent subscription on the part of the fishermen to these useful institutions. At Scarborough a sort of insurance or benefit club was established, towards which the members were to pay from 6*d.* to 2*s.* 6*d.* per month, and to be entitled to the whole of what they had paid, whenever an accident, such as loss of nets or life occurred. A handsome donation was made up as an extra inducement to join; but, after some years, the subscribers fell off, although the funds were good, and no pains were spared to induce the fishermen to subscribe.

However, the Rev. Mr. Alcock’s success in the County Waterford leads to an assurance, that wherever painstaking persons will under-

take to conduct such benevolent societies a similar success will attend them. For such a purpose the co-operation of the clergy is most desirable.

FISHING CHARTS.—In a treatise “On the Importance of Extending the British Fisheries,” by S. Phelps, [London, 8vo, 1818,] the failure of their extension is principally attributed to their never having been methodically made a national object of investigation. The Commission of Inquiry of 1835 has removed this want in a great measure, with regard to those of Ireland; no allusion, however, appears among their recommendations with respect to that important *materiel* of proceedings—the *carte du pays*.

Mr. J. C. Deane, in a paper addressed to the Royal Dublin Society, in 1847, writes as follows, in advocating that the deep-sea fishing banks should be surveyed by Government, as well with a view of ascertaining their exact position, as of recording their productiveness:—

‘During the past year some gentlemen with whom I connected myself sought to organize a Company for supplying fishing-boats, and for fishing generally. We presented a memorial to the late Government for a vessel to survey the great Nymph Bank, and a revenue cruiser was at once placed at our disposal; but not having received public support, we were, with much regret, unavoidably prevented from taking advantage of this liberal offer.

‘The expense of providing gear would have been very considerable, (more than those who organized the project felt themselves called upon to incur,) and it was even questioned by practical men whether the survey could have been effectively carried on by one vessel, and more particularly as the time was limited for her occupation in our service. I believe, also, that the value of any survey made by private individuals would not be recognised by the public as authentic, and that to be really useful it should be conducted by Government, through the medium of its own officers, aided by experienced fishermen, as well as by men of science. A report formed on a survey of this kind would be most valuable, particularly to those anxious to embark in the fishery of the deep seas, and a knowledge of the position and of the resources of the banks would, I have no doubt, tend to increase the number of vessels of that size sufficient and capable for promoting those fisheries.

‘Mr. Strangman, of Waterford, told me that he, as well as others, would have embarked capital in providing vessels for carrying on the deep sea fisheries of the Nymph Bank, but that they were deterred from so doing, in consequence of the expense which a preliminary survey of its position and productiveness would entail.’

“Charts of fishing banks would contribute materially to the promotion of the fisheries—Government is now making a nautical survey of the coast; and with a small additional expense the Admiralty surveyors could easily examine the several fishing banks, and by having experienced fishermen with them, could not only set down the nature of those banks, their soundings, currents, &c.—but also, by ‘trying the ground,’ ascertain the kinds and quantities of fish resorting to them. The resources and treasures of the deep being thus tested, an additional stimulus for perseverance and exertion is thereby given—the fisherman no longer works in the dark as heretofore, but knows in what direction



to shape his course in search of fish, should he not succeed in finding them in their accustomed haunts.”—*Facts from the Fisheries*. Waterford, 8vo., 1848.

Sir John Franklin suggested in 1836, that surveys should be made of the reputed fishing banks on the western coast, to ascertain their precise position, extent, soundings, and the supply of fish resorting to them.

Some of the charts appertaining to the coast survey were published, and were reported in 1836 to be “sought after with much earnestness.”—*Appendix*, p. 18.

The erection of small white beacon posts on rocks, and the buoying of sunken and isolated rocks, forms also another important point in which the aid of Government might be given.

Where such appliances were provided in the immediate neighbourhood of the coast, the funds might be leviable by district assessment.

**CONTROL.**—The Commissioners of British Fisheries, in their report for 1847, refer to the complaints of the reckless destruction of the spawn and fry of herrings every year off the coast of Ayr, by which myriads of that fish are destroyed. They urge the need of enactment to bestow upon them additional discretionary powers to enable them to impose restrictions, and protect the brood of sea fish.

The Board of Works, as Commissioners of Fisheries in Ireland, although they state in the Seventeenth Report that they have sparingly exercised their restrictive powers in ‘consideration of the vast extent and illimitable supply of the ocean,’ have sometimes exercised them with great advantage, to the prevention of injury to spawn by the improved methods of fishing by drag-nets. It may perhaps be thought expedient to add to these powers the necessary Government control over loan funds, &c.—and over any department for Instruction, should such measures be approved.

**INSTRUCTION.**—It has been seen that the Board of Public Works, as Commissioners of Fisheries, recommend that, beyond the acknowledged necessity for the interposition of the State for the preservation of the peace, and for the formation of public accommodations, direct Government interference should be extended to any assistance which can be given through existing establishments, to promote practical education in the habits, modes of capture, and curing of fish.

The Special Commission of 1836 recommended, ‘that a Practical Education in the Manufacture of Nets, and in other fishery avocations, be adopted in the National Schools of the maritime districts of Ireland.’

The Rev. Mr. Alcock, whose experience in promoting the fisheries in his parish entitles his suggestions to attention, observes:—“The Government is deputing Practical Instructors to proceed through the different counties, and deliver lectures on Agricultural subjects, intending thereby to improve the system of farming. Now, if something similar were done for the Fishermen, would it not be the means of effecting much practical good? The difficulties attending such a scheme are few; the Lecturer would not have to travel from farm to farm, nor from parish to parish, in search of an audience; he would easily find one assembled at every fishing station. He could adopt, as he advanced round the coast, what appeared to him to be the most successful methods of taking the different kinds of fish, and impart such knowledge to

those at other stations not so well informed; he could explain the most approved manner of fishing, as practised in Holland, England, Scotland, &c., and by exhibiting specimens of the most improved Fishing Gear, contribute materially to benefit a class of persons who, I regret to say, have in many places much to learn."

Sir Robert Kane, in his work on the 'Industrial Resources of Ireland,' closes his description of the extent of materials for industry which exist naturally in Ireland, by pointing out how indispensable practicable education in industrial knowledge is to the employment of even the richest gifts of nature.

'The fault,' he writes, 'is not in the country, but in ourselves; the absence of successful enterprise is owing to the fact, that we do not know how to succeed; we do not want activity, we are not deficient in mental power, but we want special industrial knowledge.'

'As in the existing circumstances of Ireland manufacturing industry can only come into play by slow degrees, it is by improvements in Agriculture, for which education is absolutely necessary, that the most rapid and most extensive amelioration in the condition of the people must be effected. Agricultural education is, therefore, the object on which immediate attention should be concentrated in this country.'

\* \* \* \* \*

'Above all, with temperate habits, and with the education which the National system will give to every individual of the growing race, there is no danger but that industry may be accompanied by intelligence, intelligence by morality, and all by the steadiness of purpose, and tranquillity of habits, on which the happiness of the family, and the peace of the community depend. This is the result which it should be the object of all to gain. This would render us independent of the wretched political differences on which we waste our strength.'

'Vast in its consequences, it is yet simple in its means of attainment, it only requires that each man intending to live by the land, should learn what the land is, and what can be done with it. That, having so learned, he should apply himself steadfastly to the practical working of his occupation. So he is certain of success. Success will render him independent, independence will render him respected, and respect will bring him power. Thus knowledge is power. Practical knowledge; for power is essentially practical.'

Sir Robert Kane's remarks are, of course, applicable to the Irish Fisheries, as a branch of our economic interests. As generally applicable, should they not obtain serious consideration? Property in Ireland *depends*, indeed, upon the condition of the people, and may reasonably be taxed, not only for the support of the destitute, but for an education that would serve to prevent destitution, and to enhance the value of property.

It has been well observed,—'Ought not the knowledge of the hydrographer, the naturalist, and the practical fisherman, be combined to afford us some sound basis upon which the Irish Fisheries might be fairly founded, and the wealth that lies in the sea turned to national account.'

In illustration of this position, it may be remarked, that the great fishing bank in St. George's Channel was only discovered as lately as 1735, by Mr. Doyle, an hydrographer. Monsieur Soyer, in his last



erudite book on Cookery, mentions the circumstance of the London market having been latterly well supplied with red mullet, the woodcock of the finny tribe, in consequence of a curious discovery of a naturalist in the west of England. A better success in fishing on one part of the Irish coast was stated to the Commission of 1836 as attributable to the fishermen having been taught by the coast guard to use hooks instead of thorns at the end of their lines.

If it were needful, much evidence might be brought forward to show the advantages that would accrue from a system of practical education for the coast population. The services of the coast guard might, perhaps, be brought in for the purpose.

Example is often a better teacher than precept. The Deep Sea fishing has been greatly advanced in some places by the employment of Englishmen as masters of the boats. This, however, as a matter of *private* arrangement, need only be alluded to, the present object being chiefly to inquire into matters in which it may seem reasonable to expect the assistance of Government.

It will be seen by reference to the Report of the Select Committee of 1838, on Education in Ireland, that the voluntary system for the support or extension of education has been tried to a great extent, and for a long period, and has failed. The conclusions of the committee as to the need of extended and organized institutions for Public Education and Instruction are now even more worthy of consideration at the present time, than at the time their admirable Report was drawn up.

It may not be thought foreign to the present subject to venture the following suggestion:—Some difficulty is presented by the question as to the disposal of persons convicted of crime, or under sentence of transportation. To keep them in a certain state of confinement, and yet employ their labour to advantage, forms another difficulty. That which it is most desirable to solve is relative to the best mode of treating such persons, so as to render them fit to return to society as good members. It might be practicable to appropriate some of the smaller islands that surround our shores for these purposes. Some of the least criminal would be sufficiently prevented from escape by the insularity of their prison. An island of any extent would afford means of outdoor occupation, while some trades analogous to their circumstances might be taught or practised. For example, if an extensive Fishery existed, the manufacture of nets, and the making or repair of boats might be carried on.

EXTRACTS from the STATISTICS furnished by the COMMISSION OF INQUIRY  
in 1836, in the APPENDIX to their REPORT.

*Cured Herrings imported into, and exported from Ireland—page 29.*

IMPORTS.		EXPORTS.		
Year.	Barrels.	Irish Fish. Barrels.	Foreign. Barrels.	Total. Barrels.
1798	106,172	4,215	—	4,215
1799	122,430	5,589	7,631½	13,220½
1800	44,180	1,040	8,694¾	9,734¾
1808	33,531	2	4,841	4,843
1816	60,161	915	1,161	2,076
1847	99,610 Imported from Scotland, B. Fishery Return, 1847.			

*Fish Imported into Ireland—page 29.*

IMPORTED FROM.	COD. Cwts.	COD. Barrels.	LING. Cwts.	HERRING. Barrels.	SALMON. Tons.
1802.					
Great Britain, . .	220¾	76	937	56,947	—
Other Countries, . .	6,768	410½	—	22,663	—
1808.					
Great Britain, . .	1,668	221	1,138	26,764	2
Other Countries, . .	6,781½	8	—	6,767	10

*Boats and Men engaged in the Sea Fisheries of Ireland, 1836—page 32.*

DECKED.			HALF-DECKED.			OPEN SAIL BOATS.		ROW BOATS.	
No.	Tonnage.	Men.	No.	Tonnage.	Men.	No.	Men.	No.	Men.
215	7,099	1,234	870	10,292	4,684	1,812	9,179	7,864	37,829
Total Number of Boats, . . . . .						10,761			
,, ,, Fishermen, . . . . .						54,119			

*Boats and Men engaged in the Sea Fisheries of Scotland :—*

	1836. (Report, p. 37.)	1847. (Report, p. 24.)
Boats decked and undecked, . . . . .	11,427	15,279
Fishermen and Boys, . . . . .	49,720	61,257
Coopers, . . . . .	1,989	2,280
Persons Cleaning and Packing the Fish, . . . . .	26,038	28,561
Labourers, . . . . .	7,235	7,299
Total Number of Persons, . . . . .	84,982	99,397
Fish Curers, . . . . .	1,916	1,553

NOTE.—The number of boats and men employed in Ireland appears to have been less in the year 1836 than at any other. By reference to page 68 of this volume, it will be seen that in 1848 the numbers of boats and men employed in Ireland exceed those in Scotland of the previous year.



## APPENDIX.

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### I.

#### SUGGESTIONS on the COURSE of the PROPOSED INVESTIGATION into the SUBJECT of the IRISH FISHERIES.

CONSULT and make an abstract of the principal provisions of the different Acts of Parliament referring to the Fisheries, distinguishing those which have been repealed, from those still in force.

Consult the Reports of the Irish Fishery Board, presented to Parliament, their minute books and correspondence, with any other papers or publications of the day, tending to give an account of the operations of that period.

Although it will be found that nearly the whole of the proceedings at that time were connected with the system of Bounties, and no idea of a renewal of such a system, in any degree can be admitted; yet it is necessary to record how the affairs were managed, and many useful points unconnected with it, may incidentally be elicited.

Consult the regulations adopted in other countries, more particularly the various Acts of Parliament affecting the Fisheries of England and Scotland; also the reports of any commissioners, boards, or committees, or of any private societies or associations for the promotion of the fisheries; to ascertain the measures that may have been, or still are adopted for that purpose.

Much information may probably be obtained from works published on the subject, as also from Pamphlets, Reviews, &c.

Endeavour to ascertain from these sources, as well as from inquiries, as from persons conversant in the various branches of the business, and experienced in the regulations adopted at the different Fishery Stations, what are the measures that have been found beneficial, and those which have proved otherwise. The object being to catch as great a quantity of fish as can be taken, without the risk of producing scarcity in succeeding years; various interesting subjects of inquiry present themselves, as connected with this desideratum.

It will be necessary to ascertain how far the restrictions, laid upon different modes of fishing, the limits to the seasons, to the localities of different fisheries, and to the kind of nets employed, are founded on good principles; and whether some of these regulations have not originated in old and erroneous conceptions, or in the false principle of encouraging the more imperfect methods adopted by the poorer class who have not capital or means for the adoption of improved systems.

The poor fishermen on the coast naturally support the latter principle, on the plea of the cruelty of not enforcing restrictions on operations depriving them, as they believe, of their only means of subsistence, and thus reducing themselves and families to a state of beggary; but whatever other expedients may be adopted for their benefit, the principle of

individual relief, at the expense of general improvement cannot be admitted.

Visit the different stations on the Irish Coast—inquire minutely into their capabilities—the varieties of fish found there—the seasons for taking them—and the best modes for the purpose—the probable extent to which the business might be carried—the nature of the shores, harbours, and accommodation for the vessels—the interior communications, markets, &c.

Ascertain the means employed, and the extent to which the work is at present carried.

Investigate any peculiarity affecting each station, the dissensions among the boatmen or fishermen, whether arising from subjects connected with the business, or from party feelings; the superstitions or prejudices existing in some parts; the degree of undue influence exercised by associations, or any existing tendency towards injurious combinations, or other acts likely to deter capitalists from embarking in the undertaking.

On many parts of the coast disputes have arisen between the line fishermen and those using trawling, or other nets, which have led to acts of violence complained of. Such proceedings have been reported in Dublin bay, off the Skerries, at Dingle bay, and other places. At the Claddagh (Galway town), an association has long existed among the fishermen, who have a self-appointed chief, and are subject to rules and regulations founded on superstitious and indolent habits, and opposed to many useful and industrious operations—so powerful is this body, that it has been very frequently necessary to check their proceedings by Government armed vessels. These are a few instances; but many others may probably be found in other places.

The result of this examination will tend to prove how far the provisions of the Acts of Parliament, and the existing measures and regulations are efficient or otherwise: whether those founded on general principles are applicable, and should be adopted, or if they may not require modification, or addition for peculiar circumstances, or localities.

Much information may probably be obtained on this head from the officers employed by the old Fishery Board; but the opinions of those in subordinate stations must be received with caution on the subject of the systems it may be advisable to adopt, as in many instances their minds are deeply imbued with ideas of the propriety of the renewal of Bounties—of extensive Government establishments, with other measures not generally approved on the present improved system of true policy; but which will naturally find clamorous advocates on the slightest encouragement.

It would be necessary to take a distinct view of the operations and regulations for the deep sea, the inland, and the shore Fisheries, as also that at the mouths of rivers. All are of great importance, have been much neglected, and require different treatment.

The propriety of the use of the Scotch stake-net, against which there is a strong prejudice in Ireland, is deserving of consideration. They are undoubtedly most productive, but it is asserted that they exhaust the supply of fish to an extent that may threaten a material diminution in the stock for many years.



In the rivers the construction of Eel and Salmon weirs will form an interesting subject of inquiry; and whether they also, in their present form, and being practically of unlimited operation in season and situation, may not be found too destructive.

A clear statement of these and other similar researches will be extremely valuable as a guide to future exertions, and on them may be founded the detailed provisions of an entire new Act, of which the regulations should be under the cognizance of the civil Magistrates and authorities of the country, with as little direct interference as possible from the Government, an interference which has hitherto been too much mixed up with every undertaking in Ireland.\*

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## II.

### REPORT of the COMMISSION of INQUIRY of 1835, on the SALMON FISHERIES.

THE Commissioners appointed on the 2nd November, 1835, to inquire into the State of the Irish Fisheries, and the means of improving them, have in the Replies to their Queries, received a considerable mass of information respecting the actual condition of the principal Salmon Rivers, and explanatory of the views of those interested in their Fisheries. This information, condensed and arranged under separate heads, for more convenient perusal, will be found appended to the present Report.

The Commissioners have also consulted the Parliamentary Papers relative to the British Salmon Fisheries, and such other publications on the subject as they have been enabled to procure; and they have, to the extent of their opportunities, sought for *viva voce* evidence on the subject, at several Fishing Stations, in their progress through the country.

From the Replies to Queries, it appears that the Irish Salmon Fisheries are by no means in a satisfactory condition, as well from insufficiency of the existing laws, as from the systematic breach of their provisions.

Many rivers, heretofore highly productive, are stated to have become incapable of repaying the outlay of the fishermen; and generally, throughout the South of Ireland, a diminution of fish, to a greater or less extent, is referred to causes within the reach of legislative control.

In comparing these Replies with the evidence contained in the Parliamentary Reports, the Commissioners find a very close approximation, if not an actual identity, in the exigencies, legal and physical, of the fisheries of the two countries. They meet with the same complaints of the Upper Proprietors, against the practices pursued by the Lower Proprietors, and in Estuaries and Tideways; and the same complaints of the Lower Proprietors against the negligence of those whose possessions are on the shallow waters. The same denunciations, also, are made of artful contrivances to evade the laws for the protection of the breeding Fish, in their transit to and from the spawning ground; and of the destruction of Fry, both voluntarily, and by mills and other impediments.

\* This document was enclosed in a 'letter of appointment and instruction' to the Commissioners of Public Works, dated Dublin Castle, 2nd November, 1835, and signed by Lord Morpeth.

In short, the natural history of the animal being everywhere similar, a similar course of injurious practices is everywhere found to require a similar legal interference for the protection of the breed. In Ireland, however, a frequent non-observance of the close season, and an unusual prevalence of poaching (in some cases amounting to a total destruction of the fisheries), absorb a larger portion of public attention; and are considered as especially requiring immediate legislative redress.

The prevalence of poaching in Ireland, though in part attributable to the circumstances and habits of the peasantry, is principally encouraged by the absence of an efficient Police; and this, again, is referable to the peculiar nature of the property, and the conflict of interests which that occasions. It is probable, likewise, that the facilities given to poachers by the Irish Acts, which concede to the proprietors and river farmers the right of taking Salmon at all times of the year in several of the Irish rivers, may also contribute to the same results.

The more productive fisheries are situated nearest to the mouths of the rivers; whereas, the legal protection of the breeding fish is principally requisite in the upper and shallow waters.

This natural conflict of interests is much increased by the mal-practices above mentioned, which are pursued in the fisheries along the course of the stream; for unduly intercepting the fish in their passage upwards. These are, in some cases, so successful as to deprive the Upper Proprietors of all pecuniary interest in the fisheries, and to render them absolutely indifferent to poaching, and unwilling to co-operate, either in purse or person, towards its abatement.

Wherever the lower fisheries are of sufficient value to pay the expense of protection, and the shallow spawning places are under the effectual control of the beneficiaries, the breed seems to be adequately protected; and few complaints are then made of a deficiency of Fish, arising from the use of especial engines employed in lawful fishing: whence it may be inferred that disputes on that point relate rather to the distribution of the property, than to its absolute quantity.

Neither, in such fisheries, is the exact period of close times a matter of major concern. Those interested in them naturally abstain from what is injurious to themselves; whereas, the indiscriminate take of Salmon, at all seasons, is desirable only to the poacher, or to the Upper Proprietor who has no marketable share in the proceeds of the river. It is chiefly, therefore, where a rivalry subsists between different classes of Proprietors, that the proper times of fishing, and the use of stake-nets and other well contrived engines for capturing the fish, become matters of dispute or litigation.

The extent to which this conflict of interest operates, is cognizable in the contradictory nature of the evidence offered in the various reports, as well respecting the natural history of the fish, as the tendency of the several practical points in debate. On scarcely any one particular is the testimony concurrent and unanimous; insomuch, that fixed bases for legislation can only, if at all, be attained, by a lengthy and philosophical course of independent investigations. Occupied, as the Commissioners have been, with the Coast Fisheries, they have not found leisure for such an examination; and the subject, both in its relations to private property, and to the interest of the public in a maximum supply of fish, is too important to be hastily and carelessly provided for.



Under these circumstances, the Commissioners would feel themselves compelled to ask a long extension of time for making their Report, if it were necessary to go into a separate investigation on behalf of Ireland; but they are satisfied that no such necessity exists—that whatever laws are requisite for the British Salmon Fisheries, will be found generally sufficient for those of Ireland. Convinced, also, that no industry on their part could lead to the collection of a fuller body of evidence, than that already accumulated in the Parliamentary Reports, they cannot reasonably hope to arrive at conclusions more satisfactory to all the parties interested, than those obtained by the long and laborious investigations of the Parliamentary Committees.

They therefore deem it most expedient, as well with a view to public economy, as to the early relief of the Irish Proprietors, to close their labours now; referring to the evidence they have collected, and to the several reports on the British Salmon Fisheries, printed by order of the House of Commons; and suggesting that measures be taken for embracing the Irish Salmon Fisheries in any Act which will arise out of these researches of the Parliamentary Committees—with such additions as may be found necessary in placing the Fisheries of the two Countries on the same legal footing.

*Department of Public Works, Dublin,  
4th November, 1836.*

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### III.

#### REPORT ON the GOVERNMENT of the SALMON FISHERIES of IRELAND, and the STATE of the LAWS at present affecting them.

THE Act of 5 & 6 Vic., c. 106, passed in 1842, was for the purpose of consolidating and amending the Acts then in force for the regulation of the Irish Fisheries; it repeals all the former Acts. 5 & 6 Vic. c. 106, s. 2, constitutes the Commissioners of Public Works in Ireland, Commissioners for the execution of this Act, and gives them power, with the sanction of the Treasury, to appoint any number of clerks, inspectors, or other officers, which may be necessary.

The Commissioners are intrusted with a variety of important duties. We think that a more active exercise of the powers vested in them, than has hitherto been adopted, is expressly required by the provisions of the Act, and essentially necessary for the material improvement of the Fisheries; and that in some cases sufficient provision being made, no difficulty exists in enforcing the law, while in others the law may require alteration and amendment.

REGULATION OF FISHING AND MILL WEIRS WHERE COMPENSATION IS NOT TO BE MADE.—Section 41 provides, that after the 1st day of January, 1843, in all standing fishing weirs, a free share, of certain dimensions, shall be left, and that existing free shares shall not be reduced in width; and imposes a penalty for omission in one case, and for commission in the other. Section 54 provides, that spur walls of greater length than twenty feet, shall not be attached or suffered to remain to any cruive weir or cruive dam used for fishing.

*Note.*—The law is distinct with respect to the duty of the Commissioners to cause all spur walls to be reduced to twenty feet, and in the narrow rivers the Commissioners have a power to require a lesser length than twenty feet; but this latter duty is only imposed by them upon application being made. This portion of the section is rather vague. Section 58 provides, that boxes, cribs, and cruives, shall be regulated according to the provisions of the Act. Sections 59 and 60 provide, that in such cases as the above, and in which no compensation is to be paid, the Commissioners shall have power to make or open, or under their warrant cause to be made or opened such gaps, and such spur walls, and such cruives, to be regulated. Section 95 provides, that the expense of executing such works shall be recoverable from the parties omitting or committing, by civil bill. Section 63 provides, that in all mill, navigation, and irrigation weirs to be built after 1842 (the passing of the Act), passes shall be made for the fish.

For this purpose no funds are required further than those necessary for survey and plan; and as the Board of Works have upon their staff engineers for general purposes, and with fixed salaries, we think this service should be performed by them, and that the Act clearly intended that it should. This is a matter of great importance to the fisheries; and the neglect in carrying out the provisions of the law from the commencement, creates a difficulty which would otherwise not exist. It is this: when a weir is being built, there is little, if any, expense incurred by the builder in making the pass; whereas, after it has been built, there may be considerable expense, attended with some difficulty, vexation, and inconvenience.

*REMARKS.*—We consider that the matters contained in these sections are amply provided for; and the only thing remaining to be done, is for the Commissioners to carry out the plain provisions of the law; that no application to them is necessary; therefore, that the duty is peremptory, not only according to the spirit of the Act in its general context, but by special provision. There are no funds to be provided, either from the public purse or from private parties. A legal difficulty might certainly arise, with respect to opening and widening some gaps, under the proviso in the 41st section, and the first part of the 42nd section, which exempt weirs in which no queen's share could be made or enforced by law, previous to the passing of the Act; but there are many weirs in Ireland upon which no controversy could arise upon these points.

*REGULATION OF FISHING AND MILL WEIRS, WHEN COMPENSATION IS TO BE MADE.*—Sections 41 to 53, provide for making queen's shares in fishing weirs, in which gaps could not be enforced by law, before the passing of the Act, and for which compensation shall be made.

*REMARKS.*—The whole of this legislation has been a dead letter, and is likely to continue so, unless the law is altered. The proviso of the 41st section, and the first part of the 42nd section, in recognising the existence of weirs in which by law no queen's shares could be enforced previous to the passing of the Act, and failing to define under what circumstances they could be enforced, leaves the question in a very unsatisfactory shape. The exception contained in those sections clearly refers to the 18th section of 26 Geo. III., c. 50, repealed, which saved from liability to prostration, weirs of which proprietors have had an



uninterrupted possession for thirty-one years, or have held by patent or charter grant. If it was defined under what circumstances, and in what manner, the queen's share could be enforced, where none existed when the Act passed, it would clearly, under the provision of the 59th section, be the duty of the Commissioners to have it done; but framed as the 5 & 6 Vic. is, in this respect, it could not be expected that the Commissioners should originate expensive, and perhaps doubtful proceedings, to ascertain this; and no private party is likely to do so. Those provisions made with regard to compensation, when the parties might be entitled to it, and the mode of assessment for the amount, never will, we are convinced, be acted upon, as no private party, circumstanced as the rivers are in Ireland with respect to the right of fishing, can have sufficient individual interest to induce him to do so. No one will incur the preliminary expense, which cannot be recovered unless two-thirds of the persons to be assessed agree. Such cumbrous legislation is quite inapplicable to the question; and the parties to be assessed are not those who would derive the largest benefit. Those most to be served in opening such weirs, by which the upper waters would be amply stocked for brood, are the public, who fish in the tideways and around the coast under the common-law right of all subjects. We think, in the first instance, the law should be made definite with respect to the test, by which it shall be determined which weirs should and which should not be opened without compensation, by investing the Commissioners with powers to ascertain by inquiries, what weirs came under the exceptions in 26 Geo. III.; and as the provisions in that Act may not be quite clear, we think it would be expedient to render them so in an amended Act. Were this done, the powers of the Commissioners under the 59th and 60th sections might be made available for effecting the object of the Legislature; and the number of weirs now existing without gaps, might be so reduced in number, as to render the aggregate sum required for compensation so trifling, that it might be provided by instalments from the assessment funds, advance being made first from some other public fund.

REMOVING NATURAL OBSTRUCTIONS, AND MAKING PASSES OVER MILL-WEIRS EXISTING IN 1842, (before the passing of the Act.)—Section 62 provides, that Commissioners, upon application, and expense being paid, shall remove natural obstructions. Section 63 provides for making passes in existing mill-weirs, upon expense being provided by parties making application. 11 & 12 Vic., c. 20, provides that a portion of funds raised by assessment may be applied to this purpose.

REMARKS.—In very few instances have parties come forward to provide funds for these purposes. Few have a sufficient individual interest to induce them to do so. It is of great importance that such passes should be made generally throughout Ireland. The benefit would be very great to the fisheries, not merely to parties above those weirs, but to the public below, and around the coasts; as in the case of gaps in fishing weirs; as the impediment to the heavy breeding fish seeking to ascend the rivers to spawn, in the close season, is far the greater evil of such obstructions.

Something may in time be effected towards a remedy for this, through the application of the funds raised by assessment under the 11 & 12 Vic., but the process must be very slow, as those funds will be all

required for paying persons to protect the fish which may ascend. It would appear not to be inconsistent with equity, to compel millers to bear this expense, when it is remembered that the public have conceded great privileges to that class, in allowing them, contrary to law, to build weirs entirely across rivers, and to raise them to great heights. Next in importance regarding the regulation of mill-weirs, without interfering with the milling power, is providing means to prevent the fish from entering the tail-races of mills; and we have no doubt that this also can be effected without any injury whatever to the milling interest, by erecting gratings set in frames, which could be removed at all times when the water might be so high as to require a perfectly uninterrupted flow from the wheel, to prevent back-water. For the object effecting the passage of fish, those gratings would only be required when the water is low; because when it is high, there would be sufficient stream in the natural bed of the river to induce the fish to approach the pass over the weir; and at this low state of water, the gratings could not by possibility throw back-water upon the wheel; and although the millers as a body may object to this, they are unwilling to admit the rights of any interference whatsoever, and endeavour to have it established, that their interests are paramount to all others. Still, we will venture to assert, that their most eminent engineers cannot honestly dissent from the proposition which we submit. We think, therefore, that this question should be amply investigated, and that it is sound policy, in governing the resources of a country, to prevent any class or interest from sacrificing another, when it can be avoided, without either loss to individuals or the community at large.

**POWER TO ERECT STAKE-WEIRS.**—Section 18 empowers proprietors of several fisheries to erect stake-weirs and bag-nets, subject to provisions of Act. Section 19 empowers occupiers of land to erect stake-weirs where no several fishing exists. Section 20 regulates the size of meshes and stake bag nets. Section 21 provides that no stake-net shall be placed so as to be injurious to navigation, and empowers commissioners to declare them a nuisance, and order them to be removed. Section 22 provides that no stake-net shall be placed where the breadth of the river is less than three-fourths of a mile wide. Section 23 saves the right to erect in narrow portions of rivers, where weirs have been established for twenty years before the passing of the Act.\* Section 24 saves the right to erect in narrow portions of rivers, to the owners of several fisheries, where weirs have been established for ten years.\* Section 25 saves the right to erect head weirs in narrow portions of rivers. Section 26 provides that stake-weirs shall not extend beyond low-water mark.

**REMARKS.**—The object of the statute authorizing the use of stake-weirs appears to have been for the purpose of introducing more effective engines for the capture of fish, and the privilege being limited to the occupiers of land, and owners of several fisheries, the common-law rights of the public were unquestionably interfered with, for the benefit of a very few, comparatively with thousands who exercised and enjoyed the right as subjects, to the free and uninterrupted fishing and navigation of the tideways; and a consciousness of this appears to have

\* This clause does not save a right to erect, but only to maintain.



been felt by those who sanctioned the Act, and which is recognised in the proviso to the 23rd section, in a way calculated to perpetuate litigation and dispute, and leave the question of right, as between individuals and the public, pretty much as it stood before the passing of the Act.

Had the prohibition contained in the 22nd section, to erect stake-weirs in the narrow portions of estuaries, or within one mile of the mouths of rivers, been held inviolate, much less objection might be felt upon the part of the public; but the saving of weirs established for twenty years in one case, and for ten years in another, contained in the 23rd and 24th sections, has led to much abuse, and been the cause of inflicting an aggravated degree of injury upon the public; for upon the strength of this, many parties erected weirs after the passing of the Act, in places where they had formerly been prostrated by legal means through the ordinary tribunals of the country, as well as by the public in the assertion of their rights; and great difficulty has been experienced in obtaining convictions before magistrates, in such cases, arising from the difficulty of determining the true interpretation of the Act with respect to the definition of the word "established."

The intention of the Legislature appears clearly to have been to permit only such weirs to exist as had been uninterruptedly enjoyed without dispute, upon a principle of expediency, perhaps, thus recognising vested rights enjoyed so long. But the principle of rewarding those who might have persevered from time to time for twenty years, in violating and resisting the law, and in usurpation of the rights of the public, never could have been contemplated; and the law we think should be amended, so as to leave no doubt upon this question, and no difficulty in dealing with it.

Section 21 provides, that no stake-net shall be placed so as to be injurious to Navigation, and empowers the Commissioners to remove them. The Commissioners have not exercised this power; and it may be very questionable whether it is expedient that they should be invested with it, because, with respect to navigation, the Admiralty have ample powers under the common law, with reference to it. We believe it to be quite undisputed, it imposes a very embarrassing duty upon the Commissioners, quite foreign to the question of Fisheries, and places them, we think, in a false position, the Legislature having imposed this duty upon them; strictly speaking, they should perform it, and failing to do so, a public department may rest under the imputation of something more than mere neglect, and their having declined to do so in this instance, has created difficulty in some prosecutions at common law before judges of assize; for it has been pleaded to juries by lawyers that the Commissioners of Fisheries have not considered stake-weirs injurious to navigation, otherwise they would no doubt have administered the law, and performed the duties imposed upon them by the Act, and this plausible assumption has had its effect; while we believe the real cause of the Commissioners of Fisheries declining to act has been, that it would involve the prostration of almost all weirs, and render entirely nugatory the whole provisions of 5 & 6 Vic., purporting to legalize them, in any position almost, within the mouths of harbours, no matter what the breadth of the channel might be. Section

25 saves the right to erect head-weirs in narrow portions of rivers, to parties legally entitled by charter or prescriptive right; and section 26 saves the right to extend such weirs beyond low-water mark. Here again occurs a more embarrassing point, with regard to navigation, than even in the case of stake-weirs, because the extension beyond low water mark necessarily involves a more decided and material obstruction to Navigation.

Taking a broad view of the question of Stake-Weirs, we think that any benefit which might accrue to the community at large by enabling a certain class of persons, limited in number, to use engines of this description, upon the assumption that a greater quantity of fish, in the aggregate would be captured—and which we very much doubt would be the result—is far more than overbalanced by the means of employment to thousands afforded by fishing being cut off, while the industry of the lower classes who ply with small craft within our harbours and tideways is also greatly crippled, and injuriously interfered with; and upon these grounds we think it would have been more consistent with sound principles of political economy, as well as of public justice, not to have gone further in legalizing Stake and Bag nets, than sanctioning their use upon the open coasts, outside the mouths of harbours and estuaries, where other means cannot be used so effectively, and where small craft do not ply in any considerable number. We further submit, that upon other considerations, the state of the law as it exists is objectionable, and its provisions quite inconsistent one with the other, and that it has a bad tendency upon the public mind; for that while, in one sense, as relates to fishing, stake-weirs, under the provisions of 5 & 6 Vic., may be legal in certain portions of harbours and estuaries over three-fourths of a mile wide, in another sense they may not be so, and cannot become so by any length of time, as regards navigation. Hence they can only be maintained by sufferance of the public, and are likely to perpetuate a fruitful source of dispute between antagonistic interests—the power of wealth and station perhaps too often prevailing against the humbler classes, who can only be taught to respect and obey the laws, by knowing that they are uniformly and impartially administered.

**MOUTHS OF RIVERS.**—Section 22 provides that stake-nets shall not be placed in mouths of narrow rivers, or within one statute mile seaward or inwards, and empowers Commissioners to define mouths. Section 27 provides that draft-nets shall not be used in mouths of narrow rivers, or within half a mile seaward. Provides also, that nets shall not be drawn or stretched entirely across the mouth, or any other part of any river.

**REMARKS.**—We consider the law requires amendment in these respects:—

1st. With respect to the prohibition to use draft-nets within half a mile seaward of the mouths of rivers, the Commissioners should be left a discretionary power to prohibit the use of such nets, also inwards in some narrow rivers. The object of the law, which is to permit a portion of the fish to ascend the fresh water, is defeated for want of this power, as persons can come inside the mouths of rivers, and use such nets, in a manner very injurious to the fisheries generally. To this exception



there should be no saving for several rights, either real or assumed, as the regulation is calculated to benefit all interests.

2ndly. With respect to stretching nets entirely across rivers, the object of the law is also defeated, because falling short by one inch comes within the law, while the injury intended to be guarded against is committed with impunity. The Commissioners should be invested with power to regulate the length of the nets to be used according to the breadth of the rivers.

GENERAL REMARKS.—Having referred to the material points which we consider require amendment, it may be right to add, that there are minor ones in the 5 & 6 Vic., and subsequent Acts, which if an Act were about to be passed to consolidate these, should be attended to; but it may be unnecessary to submit them in detail.

The Salmon Fisheries of Ireland are so circumstanced with respect to mixed public and private rights, (the former so far predominating in amount,) and conflicting bodies, of upper and lower tidal, and fresh water interests, that they cannot, as we believe, be governed so as to improve them in any material degree, except through a public department, and this principle appears to have been fully recognised by the Legislature when 5 & 6 Vic. passed.

The deep sea fisheries also, including the oyster fisheries, require very considerable State regulation. They are in many respects differently circumstanced from those of England, both with respect to the condition and habits of the people engaged in prosecuting them, and their geographical character is also different. The many and deep indentations of the Irish coast, where, in narrow spaces, the fishermen are concentrated, pursuing different modes of fishing, require rules and regulations to be made and enforced, which could not be effected by a system of self-government by the people engaged in them. The Legislature also recognised this principle with respect to the deep sea fisheries of Ireland, when the Act of 1842 passed, as will appear by reference to its provisions, and imposed many important and onerous duties upon the Commissioners connected with them.

To carry out the direct requirements of the Legislature contained in the Fishing Acts, adequate means have not heretofore been applied. There have been only two inspectors employed to perform all the duties connected with both sea and inland fisheries, and the whole sum annually expended by the State, since 1842, has not exceeded an average of £1,200 a-year, for salaries of inspectors, clerks, travelling expenses and advertisements; in fine, for all expenses incurred.

We respectfully submit, that if it be considered expedient to continue upon the statute book those laws which impose upon a State Department specific duties for the public service, that those duties should be faithfully and fully discharged, and the means afforded for doing so, and that to carry this into effect, the estimate which we submit would be required. And considering the importance to the country of so governing the Irish Fisheries, as to enable them to advance in improvement, and the bad moral effect produced by not carrying out the existing laws affecting them, by which the lower classes are made to hold other laws in disrespect,—we are fully persuaded that the sum proposed would soon become reproductive many fold, in collateral advantages to the community at large.

## ESTIMATE.

Two Commissioners of Fisheries, at £600 per annum, each,	£1,200	0	0
Four Inspectors for Ireland, at £250 each, to cover travelling allowances,	1,000	0	0
Two Clerks in Office at Dublin, at £125 each,	250	0	0
Incidental Expenses, Travelling, Advertising, Educational Purposes, Tracts, Models, &c. &c.,	1,550	0	0
	£4,000	0	0

The second section of 5 & 6 Vic., c. 106, contemplates the necessity for, and provides for the appointment of these inspectors, who should be working, practical men, and whose services we think are indispensable, for the purpose of assisting the Commissioners in their administrative duties, of guarding against encroachment upon public rights in the salmon fisheries, and of insuring the due regulation of fishing weirs. Their services would also be valuable, and much required, in the regulation of the sea fisheries, and in communicating instruction to those engaged in them.

J. REDMOND BARRY, } *Inspecting Commissioners*  
W. J. FFENNEL, } *of Irish Fisheries.*

*Office of Public Works,  
Department of Fisheries, 18th April, 1849.*

## IV.

## EXTRACTS from the REPORT of the INSPECTING COMMISSIONERS of FISHERIES.

THE Inspecting Commissioners of Fisheries, in presenting to the Board the Schedules usually appended to the Annual Report on the Fisheries, beg to submit the following Observations:—

SEA FISHERIES.—The information received from the several coast guard districts has been very imperfect and unsatisfactory, and it has been found impossible to procure any returns whatsoever from others; therefore our department cannot be held responsible for the correctness of that Schedule in the Appendix, which gives “the present state of the registry of fishing vessels on the coast of Ireland.” The frequent changes that have taken place in the appointment of inspecting commanders, the death of others, and the substitution of a system of subdivision of the districts between inspecting lieutenants, have produced great confusion; and until arrangements are made for a new system of registry, the statistics of the coast fisheries never can be accurately ascertained; we have every reason to believe that in numbers, both of boats and men, there is a most deplorable diminution, and the officers who have furnished correct reports all agree in representing the whole coast establishment as reduced to a very low ebb. We feel that the unparalleled destitution which prevails in the maritime districts renders it especially incumbent on us at this moment to suggest every possible means of stimulating the energies of the coast population; and while we fully admit the danger of interfering without incurring a risk of doing as much harm as good, we feel that in the present extremity it is scarcely possible to hope for a re-organization of society without resorting to measures which in ordinary times may be considered exceptionable. The public attention has been greatly attracted lately



to the Coast Fisheries, as a boundless source of profitable employment, and some very gratifying instances have been afforded by benevolent persons of the benefit arising from the application to the object of a little capital judiciously directed. Since the commencement of these distressing times, the terms 'fishery station' and 'curing house,' have become more familiar upon most parts of the coast than they ever were in days of comparative prosperity.

The establishment of the Government curing stations at Killybegs, Belmullet, Valentia, Castletown, and Baltimore, has, for example, been productive of as much benefit as could, under the circumstances, have been reasonably anticipated; and although the wind up of these concerns will not elicit profitable results in a pecuniary way, they have in an educational point, and as models of an improved system, been gradually successful. The extent of business done was at all times less an object in those establishments than the exhibition of a better cured article, and the training of all who wished to learn a better and more thrifty management.

The Society of Friends, eminently prominent in their judicious and benevolent efforts to alleviate the distresses of the people, directed their attention to the fisheries; and in all cases where their proceedings were under the control of their own managers, or where they had the good fortune to find judicious administrators of their bounty, permanent good results have followed; but in most instances their liberal system of relief was antagonistic to our stringent regulations, which wholly precluded every species of gratuitous aid in any shape. This branch will form a subject for a distinct report when the concerns are all wound up. The indefatigable exertions of the Rev. Mr. Alcock, at Helvick Head, aided by Mr. Strangman of Waterford, and Lord Stewart de Decies, have produced an establishment which deserves to be ranked very high on our list. The piscatory school at Galway, under the management of the reverend gentlemen of the Dominican Convent, with an auxiliary curing house, established by the Rev. Mr. D'Arcy, and other gentlemen, with the aid of funds given by the Society of Friends, under the superintendence of an experienced Cornish fish-curer, have proved infinitely valuable to that locality. The Society of Friends have been our successors at Castletown, Berehaven.

The Earl of Courtown, and a small company formed at Courtown, having secured the services of one of our Scotch curers, Mr. James Low, have produced specimens of the finest bloaters, and other cured fish, that have come to the Dublin market. Lord Courtown and Mr. George Le Hunte, of Artramont, in the county of Wexford, both sent young men to be trained at our station, at Killybegs, by Mr. Windrum, our curer there, who instructed them gratuitously in fish-curing and coopering; and Mr. Le Hunte, who has also established a small curing concern on the Wexford coast, after the closure of our Killybegs concern, sent the same young man to Montrose to be perfected in the trade by the father of Mr. Low. The introduction of an improved description of coopers' tools, which were brought from Scotland for our stations, proved a valuable acquisition for the manufacture of fish barrels; such implements for this special purpose never having been in use before by the tradesmen here; they are now considered valuable models at Killybegs, Belmullet, Dingle, Castletown, and Courtown; having been purchased

by the persons now conducting these establishments. The Royal Irish Fisheries' Company, instead of plunging into the vortex of wild and ill-conceived speculations, upon the usual scale of large joint-stock fishing companies, are wisely feeling their way upon a moderate scale, and from their establishment at Dingle the Dublin market is occasionally supplied with some of its finest turbot and soles; they have secured the services of Mr. Brown, one of the best Scotch curers; and under the steady and quiet management of the two gentlemen who have the direction of the concern we entertain a confident hope that the project will prosper, and speedily become a safe and profitable source of investment for the public as well as of advancement of the fisheries. Our curing establishments at Killybegs and Belmullet have been transferred to enterprising persons who are making active preparations for the curing season; and there is every reason to hope that at Valentia we shall speedily find similar successors. At Ballycoltin, in the county Cork, the exertions of the Rev. Mr. Hingston, are stated in a published report to have produced the most gratifying results; and at the Galley Head an intelligent person, Mr. Morley, of the coast guard service, aided by the kindness of the benevolent Lady Carbery, and of the Rev. Mr. Stewart, has done much to sustain the energies of the fishermen. Captain Thomas, the enterprising manager of the Coosheen copper mines, near Schull, has contrived to render the fishery first an auxiliary, and more recently a substitute for the employment which in more prosperous times the mines used to afford. At the Little Killerries, on the Galway coast, General Thompson has established a fishing colony, having erected comfortable habitations, to which he annexed small allotments of land; which, with perseverance was likely to have been successful, till the inducement of out-door relief drew off several persons who had been supporting themselves by their own industry. It is much to be deplored that other active and benevolent persons have experienced similar difficulties where gratuitous relief was given.

The pursuits of a Fisherman are precarious and laborious in the best of times, and unhappily the mental and physical energies of the people have been so thoroughly paralyzed, that in most cases they preferred a wretched existence to an occupation for which neither their food nor their clothing was suited. In many instances upon the south coast, the crews of row-boats who had ventured to sea in an exhausted state, have been in imminent danger from their inability to come back from the fishing ground, through absolute weakness from want of food. We have especially referred to those new cases of individual exertion to promote employment in fishing; and we are enabled to add, that in several old existing establishments increased activity has been evinced, and that public attention seems to have been directed to the object as one of the staple resources of the country. The curing establishments of Mr. Dawson and Mr. Cadogan, at Kinsale, are not inferior in extent and accommodation to many of the best concerns in Scotland; and we have with much satisfaction learned that a considerable trade in fish has been carried on out of that place through the intervention of enterprising adventurers from Skerries, who have become large purchasers of fish upon the south coast for the supply of the Liverpool market. Among the most valuable sources of demand for fish, and of profitable employment for the people, we should not omit to include Mr. Robertson's



preserving concern, near Roundstone, where salmon, oysters, lobsters, and other fish are upon an extensive scale preserved for export. This branch of the trade is particularly suited to remote localities where the fish abounds, and the sources of demand or the facilities of conveyance are limited. It must be needless for us to observe, that among the most legitimate means of improving our fisheries should be considered increased means of transport to favourable markets, either by railroads, or upon the cross lines by well appointed carts.

Mr. Bianconi, the great coach and car proprietor, has, with his usual liberality, signified to us his readiness to make all his conveyances available for the purpose, at the very lowest scale of charge, and we have reason to believe, that owing to that advantage is the better supply to many of our inland towns, as well as the increased export from those places out of which there is steam navigation. It seems now to be pretty well understood, that where there exists a facility of transport, the sale of fish in a fresh state is more safe, and generally more profitable, than after it has been cured; but in remote districts under present circumstances this is quite impossible; and when one sees the merely nominal price which the poor hard-working fisherman often procures for the produce of his night's labour, it is hardly to be wondered at that he should often seem to be deserving of censure for indolence and want of exertion. Mr. Campbell informs us that fine haddocks are now offered at Belmullet for 6*d.* per dozen. The sea coast districts of Ireland are at this moment decidedly the poorest and most depressed places. Vast numbers of the population are inmates of Workhouses; it is well known that the habitations of these persons once deserted, have generally been destroyed; if they have been of a description suited to the occupation of human beings, there would be much reason to deplore the wholesale demolition which one sees along the coast;—such as they were, they afforded a temporary shelter, and it is much to be feared that we cannot hope for better houses. It is obviously the interest of proprietors who wish to render their coast and island property productive, to provide the fishermen with the means of locating in favourable places; but the want of money and the utter prostration of energies, which at present prevail among all classes, will require the application of some stimulus, some direct inducements to exertion, or the masses of fishermen will be forced for the want of common shelter to continue in the Workhouses; or to congregate into the outskirts of towns, where they will become the victims, as well as the cause of disease.

It may with some truth be said, that a Government department cannot be expected to do more than recommend to parties directly interested the course which they believe to be most likely to be beneficial; such recommendations have been long and frequently given in respect to curing establishments, but nothing of the kind was ever constructed in some of the most favourable localities until after the example given at our stations. We have reason to believe that the formation of small Fishery Villages in advantageous positions would be generally beneficial; we know that at Valentia, the want of habitations alone prevented a valuable and productive community from having been formed round our station. We submit that the residue, which will be produced on winding up the Curing Stations could not be more judiciously applied than in encouraging the establishment of one or two model fishing

Villages in favourable situations. The co-operation of proprietors may be sought for by an offer to contribute a portion of the cost of the two first villages that shall be built in approved localities, and according to approved plans.

Forty houses, affording sufficient accommodation for as many families	
may be constructed for £20 each,	£800
A house and sheds for salt and fishing stores, common to all,	200
	<hr/> £1,000

To each house there should be appended an allotment of a small portion of land.

The co-operation of the National Board of Education may we presume be counted on, and these little establishments may become sources of useful training as well as of relief. We entertain very sanguine expectations that one or two such examples would, if well arranged, become objects of imitation; we have long felt the difficulty of introducing improved habits among a scattered peasantry whose pursuits were not especially directed to one object; this plan seems to us the cheapest and best mode of trying the experiment. The benefits resulting from the plan of Agricultural Instruction would naturally suggest the value of similar efforts for the introduction of improved modes of taking and preserving fish. It may be well deserving of consideration how far poor law unions in maritime districts may be permitted to co-operate in such objects as we propose. The cost of a family for a year in the Workhouse would place them in an independent position for life. From that admirable measure the Land Improvement Act, 10 Vic., c. 32, the construction of buildings for farm purposes has perhaps very wisely been excluded;\* but there are vast tracts of land upon our shores that are wholly unsuited for agriculture, but that present upon their margins abundant sources of food and wealth, which can never be available without habitations. Such establishments as we have suggested may perhaps be considered a legitimate object for limited aid, under the terms of the Act, if altered or amended. It could not be expected, nor indeed would it be desirable, that more than a portion, say one-half or two-thirds, of the necessary funds should be charged on the land, and it may fairly be spread over a limited period, say ten years. Without some such exertions, we greatly fear that many parts of the shores of Ireland will never cease to be barren wastes.

**MARKETS FOR CURED FISH.**—Our experience in the conversion of the produce of the curing stations has convinced us, that in order to remunerate adventurers in the fisheries, it is not enough to buy fish, and to cure it very well. We have generally experienced the greatest difficulty in obtaining a sale at paying prices for the fish at all our stations. The intense poverty of the country, and the prejudice against the use of salt fish without the potato, have no doubt greatly increased the difficulty; but we find that our Scotch neighbours make a similar complaint. In the last Report of the Commissioners, for the British Fisheries, printed by order of Parliament, on the 19th March last, we find they state, “the unprecedented and ruinous condition of the Irish market for cured herrings, where they were almost unsaleable at any price, the Com-

\* However, see “Ireland and the Plantation Scheme,” by James Caird, chap. xii. Edinburgh, 8vo, 1850.



missioners having received various representations from fish-curers throughout the kingdom, pointing out the depressed state of the trade, principally owing to those foreign prohibitory duties which prevent the transmission of British cured fish into several of the continental states, and praying that measures may be adopted to obtain additional markets for the produce of the British fisheries in foreign countries, or a modification of the high rates of duties exacted, beg to bring this important matter under the consideration of the Government, and to express an earnest hope that something may be done to relieve the depressed condition of the herring fishery, produced principally from the above causes." Most cordially do we express our full concurrence in the wisdom of this suggestion. In 1823, one of the present Inspecting Commissioners, then Inspector-General of the south coast, urging in his report to the Fishery Board the importance of an abolition of the salt duties, (page 43,) adds, "the advantages to the agricultural interests would likewise be considerable, and a stipulation may be made with the Government of Portugal, that in consideration of our receiving their salt duty free, they shall receive our cured fish on the same terms; at present the duty on importation into Portugal is nearly prohibitory, and we are therefore deprived of a valuable market for any fish that we may hereafter be enabled to export." To the above report there is a note appended in 1824 by the Board's secretary:—"In consequence of a communication made by the Board of Fisheries to the Irish Government, in January 1824, on the expediency of applying to the Spanish and Portuguese Governments for a reduction of the duties laid on the importation of British and Irish cured fish into both these countries respectively, a representation was made to the Lords of Privy Council for Trade, who returned for answer—"that frequent representations had been addressed to the Governments of Spain and Portugal; but that owing probably to the state of those countries, these representations have not hitherto produced the desired effect."

**SALMON FISHERIES.**—The Inspecting Commissioners, in making their report upon the salmon fisheries, feel it to be their duty to bring some questions connected with this branch of the department under the consideration of the Board, which they feel demand special and particular attention, as they relate to the duties imposed upon the Commissioners by the Legislature.

From the best information which we have been able to collect, we regret to be obliged to report, that the salmon fisheries do not appear to be in a state of progressive improvement. This must be attributed to the want of protection to the breeding fish, in the close season, which may ascend the rivers, as well as to a deficiency in the means required for removing obstructions to their ascent, and some other important matters to which we shall refer, connected with abuses of the law and a failure in its administration.

The Act of the last session of Parliament, 11 & 12 Vic., c. 92, having made provision for raising funds for protection, by assessment upon engines employed in fishing, and rates upon the valuation of fisheries, under the poor law, and which we hope may ultimately work well, and be productive of much good; however, as this Act practically did not come into operation until the 1st of February last, (the commencement of the open season,) and then only to the extent of collect-

ing the funds to be derived from the sale of licences, we are not in a position yet to be able to state much connected with its working. From a few districts considerable funds have been returned already, and we hope that in several others the results by the end of the fishing season, will be to a great extent satisfactory, while in some we fear they will be inadequate for the object required; however, the principle of assessment having been long advocated and urged upon the Commissioners by many persons generally throughout Ireland, connected with salmon fisheries, we have no doubt that its adoption was expedient, and that it will ultimately be productive of substantial good. We have used our best exertions up to this time to render the Act effective by carrying out, as far as lay in our power, the duties devolving upon us in arranging and guiding the machinery required to bring it into operation, before placing it under the control and management of local boards, who are to be called into existence in July next, and shall continue to do so until that period arrives when the Act provides that its administration shall be placed in their hands, and we annex a copy of the arrangement of districts which we have made, with a schedule of rates fixed for this year, which has been widely circulated and published in the newspapers, conformably with the terms of the Act.

Upon application being made to the Executive Government to afford the aid of the constabulary in enforcing the payment of licenced rates, it was granted, and the inspector-general of that force has promptly acted, by issuing circulars to those under his command to attend to it; and we beg here to state that in all matters connected with the duties of the constabulary, as regards the enforcement of the fishery laws, we have found Sir Duncan M'Gregor most cordial in his co-operation, whenever we have found it necessary to seek his aid or confer with him on the subject.

**ILLEGAL STAKE WEIRS.**—We regret to be obliged to state that notwithstanding the frequent convictions in the superior courts of persons for erecting illegal weirs in the estuary of the harbour of Waterford, many have still persevered in doing so, and the Board being fully in possession of the facts connected with this subject, it may be only necessary for us to suggest that it appears requisite for the preservation of the peace of the country, and the protection of the rights of the public, that more direct and summary powers should be afforded by the Legislature than those which exist at present for the suppression of such a system of defiance to the law as has been pursued in this locality, which we are convinced has produced in a moral point of view a very bad effect upon the public mind, particularly as regards the humbler classes.

We feel it our duty also to call the attention of the Board to the subject of stake weirs in other localities, where, although the same degree of excitement may not have arisen, as in the neighbourhood of Waterford, still the law is not obeyed, and great abuses exist, and in some instances the draft-net fishermen have assembled and prostrated them.

In the river Blackwater, in the county of Waterford, there are many stake weirs illegally erected, and also in the Shannon. Some of those are placed where the channel is less than the breadth required by the



law to sanction their erection. Others extend beyond low water mark, and many of them materially, we believe, interfere with navigation.

We feel it to be our duty also to represent to the Board an abuse of a different description, or perhaps, more properly speaking, a violation of the law, attributable, we regret to be obliged to add, to some persons of high station.

Under the provisions of 5 & 6 Vic., c. 106, secs. 18 and 19, no persons are authorized to erect stake weirs or bag nets, except the occupiers of land adjoining the coast where they may be placed, or the owners of several fisheries, under certain regulations and restrictions, and 8 & 9 Vic., c. 108, sec. 5, subjects to penalty and forfeiture of net, any persons erecting or using such, "other than the persons entitled to exercise such right under the provisions of the first-recited Act;" and notwithstanding this clear and distinct provision, by which the Legislature intended to give a privilege to use a certain description of engine for fishing, to the occupiers of land adjoining the coasts and estuaries, many proprietors of estates have let the shores of their properties to persons occupying no land in the locality, and coming from distant parts of the country, thus depriving their tenants of the advantages intended for them, and them only, by the law of the land, and turning the profits to their own account, and this practice, which exists to a great extent, has naturally much increased the hostility to stake weirs. The public generally object to them as encroachments upon their common rights, while the occupiers of land feel that their privileges under the statute also are illegally denied them, being transferred to others by those who have no legal power to do so, but with whom humble persons cannot well contend, from the dependent position in which they are placed.

This is an abuse which we think should be suppressed through the constituted authorities, by prosecuting all persons using stake weirs who are not entitled to do so, as occupiers of land; for the aggrieved parties cannot venture themselves to come forward; and in addition to this individual injustice, the effect upon the fisheries generally is bad in rendering those persons who live upon the lands adjoining the coasts and shores of tidal rivers, reckless with regard to protecting the fisheries, or obeying the laws relative to them, and who might naturally be taught to feel a disposition to do so if they were allowed to avail themselves of the beneficial interests attaching to the use of stake weirs, to which they are legally entitled if any one be.

**CLOSE SEASON.**—Many applications have been recently made to alter the close season, but we have felt it unnecessary to bring them under the consideration of the Board, acting upon the decision which was previously made of deferring to make any change until the boards of conservators shall be formed, and through whom the general interests of the several districts will be represented.

**PRODUCTIVENESS.**—We have no means of obtaining an account of the aggregate annual value of the salmon fisheries, and therefore cannot state accurately the comparative produce of the past season with that of any other, but from all the information we could obtain, we believe that last season was not an abundant one.

**GENERAL REMARKS.**—Having been associated with the Commissioners of Public Works, as Commissioners of Fisheries, by the Act of

last session of Parliament, and thus been made to participate with them in the responsibilities attaching to the faithful discharge of those duties imposed by the Legislature, we feel that we owe it the public, to the Board, and to ourselves, to point out some deficiencies in administering the laws, which we conceive have existed since the regulation and management of the fisheries were intrusted to this department,—the effect of which we believe has been materially to retard the advance of improvement in the salmon fisheries; and we feel assured, that if our views are considered to be correct that the Board will cordially support us in them, and adopt in future a more active system of government, should we succeed in making it clear that it is required for the public service, and enjoined by the express provisions of the Acts of the Legislature.

Being fully aware of the extreme pressure resting upon the members of the Board for the past three years, arising out of the unfortunate condition of the people of this country, we feel that it was impossible for them to give that attention to this subject which, under other circumstances, might have been more fully rendered, but now that they are relieved from the burden of those duties, connected with the direct and immediate obtainment of food for the starving population, we hope a favourable opportunity is afforded of bringing under their consideration a question affecting the good government and development of the fisheries, acknowledged to be a most important natural resource, from which food, wealth, and employment may be derived in an abundant degree, and of which Ireland is at present so much in need, and on whose behalf, as regards the permanent well-being of her people, the Parliament and the Government are at present so solicitous.

For the purpose of submitting definitely, and in detail, to the Board the opinions which we entertain, we beg to refer to the copy of our Report to the Committee of the House of Commons now sitting for the purpose of inquiring into the state of the Irish Fisheries, and the laws in force affecting them, which we have already laid before the Board, as we feel that it may be more convenient to avoid repetition, and may be unnecessary to enter more minutely into the subject than we have done in that document, and which, for the purposes of the Annual Report to Parliament, may be appended to this our Report to the Board, and made a portion of it. The only additional remarks which we deem it necessary to make are the following:—

1st. That the regulation of weirs, fishing cruives, and spur walls, referred to therein, cannot be effected except through the medium of the Commissioners of Fisheries, as provided for in 5 & 6 Vic., and that therefore the public being debarred from the power of doing this service for themselves, and persons in the capacity of servants to the public having been appointed for the purpose, the duty we consider, in justice to the public, becomes imperative, and is not discretionary, and we know that much discontent and disapprobation prevail upon part of the public with respect to it.

2ndly. That with respect to the provision contained in 5 & 6 Vic., with reference to furnishing a statistical account of the Fisheries to Parliament, we beg to state that no means are afforded at present for accomplishing to any useful extent such an account; and this would be an important service, which might be rendered in addition to many



others required, through the instrumentality of local inspectors, which we have recommended in our Report to the Committee of the House of Commons.

We append an account of the Fisheries in Ireland, valued under the Poor Law. It is so small in amount comparatively with the real aggregate value of it, fully illustrates the very small portion of the Irish Fisheries claimed as private property, and establishes the great extent to which public right exists, which can only be protected and regulated to any materially useful end, by a more active administration of the law, as provided through a Government department.

J. REDMOND BARRY, } *Inspecting Commissioners*  
WM. J. FENNELL, } *of Fisheries.*

*Office of Public Works,*  
*Department of Fisheries, 21st April, 1849.*

## V.

**LICENSES.** Act 11 & 12 Vic., c. 92.—An ACCOUNT of Money Received, and Licences Issued, under provisions of this Act, from the 1st day of February, to the 1st day of September, 1849, by each Stamp Distributer of Licences for the following Districts:—

Date.	No.	District.	No. 1. Single Salmon Rod.	No. 2. Cross Line and Rods.	No. 3. Snap Nets.	No. 4. Draft Net or Seine.	No. 5. Drift Net.	No. 6. Trammel or Draft Net.	No. 7. Pole Net.	No. 8. Bag Net.	No. 9. Fly Net.	No. 10. Stake Net or Stake Weir.	No. 11. Head Weirs.	No. 12. Box, Crib, &c.	No. 13. Gap, Eye, or Basket.	Amount.
February to September.	1	Dublin, . . . .	28	1	5	1	5	1	5	1	11	22	24	9	4	£ 36 0 0
	2	Wexford, . . . .	13	45	5	1	2	1	11	2	2	22	24	9	4	102 10 0
	3	Waterford, . . . .	71	43	45	5	15	1	2	1	5	4	21	22	3	372 15 0
	4	Lismore, . . . .	41	37	21	6	1	1	5	4	1	21	22	3	3	303 15 0
	5	Cork, . . . .	46	9	40	1	12	22	1	1	1	1	1	8	1	181 10 0
	6	Bantry, . . . .	12	1	33	1	3	3	3	3	3	3	3	3	3	63 15 0
	7	Killarney, . . . .	10	1	39	1	2	2	1	3	3	3	3	3	3	101 0 0
	8	Limerick, . . . .	73	10	15	66	1	2	7	14	26	21	13	56	3	434 15 0
	9	Galway, . . . .	110	12	10	1	1	1	1	1	1	1	1	3	109 10 0	
	10	Westport, . . . .	58	2	29	1	4	1	1	1	1	1	1	4	3	98 10 0
	11	Ballina, . . . .	38	5	9	12	1	3	3	3	3	3	3	10	1	103 0 0
	12	Sligo, . . . .	17	1	14	1	1	1	1	1	1	1	1	3	1	44 10 0
	13	Ballyshannon, . . . .	91	1	17	4	1	27	1	1	1	1	1	5	17	162 10 0
	14	Letterkenny, . . . .	10	1	10	1	2	2	1	3	3	3	3	7	1	67 0 0
	15	Londonderry, . . . .	46	5	42	18	34	1	30	30	30	2	6	18	1	471 10 0
	16	Ballycastle, . . . .	19	1	3	1	37	1	37	1	1	1	1	2	1	111 10 0
	17	Drogheda, . . . .	80	16	9	44	2	2	2	2	2	2	2	10	16	168 15 0
Grand Total,			783	140	91	417	46	40	32	175	32	101	48	93	114	£2,982 15 0

The Poor Law Valuation Per Centage to be added to the above.

**THE GREAT LIMERICK WEIR.**—The Shannon is by far the largest river in the British islands. It has the breadth and value of a navigable highway at a distance from its mouth at which the Thames and Severn are, in comparison, inconsiderable streams. It is two hundred and fourteen miles in length, and is navigable through all that extent, except for a few miles. The tide ebbs and flows for sixty-four miles of that distance; and for forty miles the river has an average breadth of a league.

This great artery for wealth and commerce must once have teemed with the Salmon tribe, as the American rivers are known to have done. It is fed by numerous streams, all as many nurseries for this fish, and expands into wide lakes, in which they may lie secure.

Without acquiescing in all the views expressed in the following extracts from an article on 'the Illegality of Crown Grants of Public Fisheries in Ireland,' the facts set forth in them show part of the history and effects of the great barrier Weir on the river Shannon.

"The Shannon gradually narrows to something less than a quarter of a mile at Limerick. About two miles above the city the Corporation erected a weir across the channel, from shore to shore; this weir was so constructed that not a salmon could pass through or over it. Between it and the main sea the Corporation would not allow any one to fish, and between it and the source of the Shannon they of course did not allow a salmon to appear; and thus all the fishing in the river was confined to that one spot, and was managed by five men—four to take the fish out of the chambers of the weir, and the fifth to kill and count them. Had that weir been indicted and abated as a nuisance, and all other illegal weirs and fisheries along the course of the river been removed, and all persons been allowed to exercise their rights of fishing, and in a lawful manner only, there would have been 'ample and well paid employment' afforded to at least forty thousand persons.

"But it is not the poor alone who are defrauded by these weirs. Every gentleman who has lands on the banks of a fresh water private river, up which salmon would come were they not prevented by these weirs, is defrauded of the full enjoyment of his property; for to the lawful fishery in such a river he is as much entitled as to the fruit in his kitchen garden. The country gentlemen very soon saw the wrong inflicted on them by such weirs, and endeavoured to relieve themselves by the aid of the Legislature. A bill was introduced, in 1784, into the Irish Parliament, for promoting the inland fisheries; one of the clauses of which provided that in each weir on the Shannon there should be fixed a sluice, or flood-gate of six feet in width; and that it should be left open on Saturday evening to Monday morning, in order to permit the fish to go up the river to spawn.

"This very fair proposition was opposed by a Limerick member, on the ground that the Corporation 'had for many years enjoyed, under a charter, the right of having weirs on the river Shannon,' and that their chartered rights should not be thus interfered with. The Attorney-General doubted very much the legality of the charter encroaching on private property. The charter mentioned by the honourable gentleman was undeniably of that description; for by the weirs erected under



its authority, all the upper part of the Shannon was rendered destitute of fish, and the proprietors of land abutting upon the river were deprived of the benefit of the fishery, to which they must have an original right. The bill now before the Committee was intended to restore in some degree the benefit of the fishery to the interior country, without injuring the city of Limerick; for though at their weirs there were often caught from six hundred to one thousand fish per day, for the whole upper part of the river, it was only desired that a small passage should be opened for a few hours once a week, that the mother fish might go up to spawn.

"The bill was lost, but a few years afterwards another was brought in, and passed; which provided that in every weir, in every river, and in the deepest part of such river, there should be a passage twenty-one feet wide, called the king's gap, left always open (23 & 24 Geo. III., c. 40, s. 11). This statute has been, however, in most cases disregarded by the weir-owners. The Limerick Corporation for a long time set it at defiance, till at length legal proceedings were taken against them; and even when they were obliged to leave the gap open, they endeavoured to defeat the object of it, by putting several white substances in it, and particularly one in the form of a crocodile, to frighten the fish from passing up (*see Report of 1825, passim*).

"In general, throughout the entire kingdom, wherever the gap is left, various expedients are resorted to for the purpose of rendering it inefficacious; so that the proprietors of the fresh water fisheries are almost as completely defrauded of their fishings as if that statute had never been passed. But even supposing that the weir-owners fairly complied with it, see what a fraction of their rights they leave to the private proprietors—twenty-one feet out of an average breadth probably of a quarter of a mile.

"Looking at all these circumstances can we wonder that the whole population should be hostile to such a system? \* \* \* \* \*  
Everybody, not directly interested in it, lifts his hand against it. The people refuse to obey what they are told is the law, and the magistrates, who are not interested, refuse to enforce it. \* \* \* \* \*  
But for this weir, the river would be navigable some distance above it, the tide rising to a height of twelve feet at each side of it. It is made of stone piers extending across the river like the piers of a bridge, and lath-work stretched across securely from pier to pier at the western side, or that on which the Salmon come from the sea. To every alternate pair of piers there is lath-work affixed at the eastern side also, so as to enclose a complete chamber. There is an aperture for the Salmon to get in, and of course none to get out. Between the other piers there is no passage for them, so that when they push their snouts against the lath-work they are obliged to grope their way aside till they get into these very snug 'chambers.'

"Thus this weir stands continually, from morning till night, and night till morning during the fishing season."—*Dublin Review*, November, 1841.

The writer forgot to state that the prescriptive title to this weir is many hundred years old. The legal title of the Corporation of Limerick to it, whether by right of patent, or of long enjoyment is not questioned, but the existence of the obstruction, both to a free run of

ish, or in the more important consideration of navigation, is undoubtedly a great evil, and its injurious effects ought to be lessened as far as the law will permit. The lessee only pays £300 per annum rent at present, the value of the weir having been greatly reduced by the introduction of stake nets into the estuary. It might be worth while, on the part of the owners of those nets, and of the proprietors in the interior, to join in purchasing the lease and the weir together, supposing that the owners would consent to part with them.

The Great Lax weir at Limerick extends entirely across the river, in a diagonal direction; the breadth of the stream there is 1,141 feet.

In this great artificial obstruction there is but one opening, of not quite twenty-one feet, but the weir does not reach quite to the banks by a few feet on each side. It is built, of stones, bound together by upright posts of timber. The top of the weir is much higher than the surface of the water. This gap is the only opening for boats, and in summer the water is too shallow to admit a keel-boat drawing three or four inches. The gap bears a proportion of only one fifty-fourth part to the width of the river at that part.

It is said that the tenant some years since made £2,500 by the profits of this weir.—*Evidence of Sir R. De Burgho*, 1849.

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## VII.

From "An Account of Ireland, Statistical and Political," by Edward Wakefield, 2 vols., 4to, 1812.

"The SALMON is mentioned by Pliny; but it seems not to have been known to the Greeks, for it has never yet been found in the Mediterranean, and those people had very little intercourse with the northern countries where it abounds. In Europe, Kamtschatka, Greenland, Newfoundland, and in the northern parts of America, it is plentiful. Notwithstanding it is a sea fish, it proceeds up rivers to deposit its spawn in some favourable place; and it is remarked, that when it has once made a choice, it returns to the same spot again, like the swallow to the building where she before had constructed her nest. The latter circumstance has been long ascertained, by marking the bird; and the former was proved in the following manner by the French naturalist, De la Landes having purchased from the fishermen of Chateaulin, a town in Lower Brittany, where about 2,000 Salmon are caught every year, a dozen of these fish, he fixed copper rings round their tails, and set them at liberty. The fishermen assured him afterwards, that the next year they caught at one time five of those marked Salmon, another time three, and a third time the same number. In spring, as soon as the ice begins to break, the Salmon seek the fresh water; and it is observed, that they are found in much greater numbers in those rivers which discharge themselves into the sea by a narrow mouth, than in those which spread to a considerable width. They generally enter the rivers in spring, taking the tide and the wind, which the fishermen call the Salmon wind. In the warmer parts of Europe this ascent takes place in February and March; but in the colder, in April and May. They are fond of water which flows with



rapidity, and where the bottom consists of pebbles and sand; here they remain till autumn, and having deposited spawn, they proceed back to the ocean; a few, however, continue sometimes the whole winter in fresh water; for it frequently happens, particularly in Sweden, that the streams freeze so early as to prevent their return. In Ireland also, Salmon are found in some of the rivers throughout the whole year. When Salmon enter a river they do so in numbers, arranged in two rows, forming the two sides of a triangle, one of the largest being commonly stationed at the summit; and if they meet with any obstacle which deranges this order, they resume as soon as they have past it, their former position. They swim always in the middle of the stream, and near the surface of the water, but if the weather is stormy or hot they continue their course nearer the bottom. Their keeping at the surface, and in the middle of the stream, arises no doubt, from their fondness for currents; for it is known by the experiments of Mariotte, that a stream is always stronger in the middle than at the sides, and that water flows with more velocity near the surface than at a greater depth.

“Salmon take long migrations, and if they meet with a waterfall or barrier, spring over it by putting their tail to their mouth, so as to form their body into a circle;\*” in this manner they are able, if the water be deep, to throw themselves to the height of five or six feet; when they reach the summit of the fall, they strike the water with their tail, as a sign of their satisfaction, and proceed onwards; if they fail in their attempt, they renew it after a short rest, and continue in this manner till they accomplish their end, or discover the impossibility of succeeding. When Salmon arrive at a place where two rivers meet, one of which is rapid and the other still, they first enter the former, but afterwards proceed to the latter, with a view, perhaps, of finding a more quiet place for depositing their spawn. They prefer also rivers closely bordered with trees, because they are fond of the shade, and of cool water; on the other hand they avoid rivers, the mouths of which are beset with buildings, as has been experienced by the fishermen in Sweden. They do not readily proceed from rivers into small streams, the mouths of which are shallow, except in stormy weather, when the water is so turbid that they are not able to see their way. The floating of wood drives back Salmon, and they seldom approach places where there are buoys, or movable objects of the like kind; they are scared also by any thing that is red, and, therefore, it is advisable not to cover houses near Salmon fisheries with tiles of that colour. Saw-mills, in consequence of their noise, frighten Salmon as well as other fish, and if the former, when they approach the coast or mouths of rivers, hear any noise, or perceive seals, their mortal enemies, they immediately retire. In the year 1743, whole shoals of Salmon were sent back into the sea, from the mouth of the river Tornea, in Sweden, by the firing of a few three-pounders belonging to the artillery.”

\* The body of the fish is one continued muscle; this gives them their great strength, and their swiftness in the water.

## VIII.

RESOLUTIONS adopted at a Meeting of the Proprietors and Lessees of Salmon Fisheries of Ireland, Londonderry, 13th June, 1848, as a basis for a Memorial to the Lord Lieutenant. [*Appendix*, 1849, p. 150.]

1.—‘ An Assessment Bill, according to the Scotch principle, 9 Geo. IV. cap. 39, sec. 1, and no other, to be under the management of the proprietors and farmers of the fisheries; and that no person or party shall have power to interfere with them in such assessment.

2.—‘ That draught nets used for taking Salmon at sea, being fished by persons who have no right to the shore, should be deemed illegal, unless possessed by proprietors of the shore adjoining, or persons authorized by them.

3.—‘ That all drift or mesh nets used for taking Salmon in the sea, estuaries, lakes, or rivers, shall be declared illegal, inasmuch as such nets are injurious to fisheries at large, by turning off much more fish than they take, and are only used by poachers in rivers and lakes.

4.—‘ That Magistrates shall have summary power in the open as well as in the close season to punish trespassers.

5.—‘ That every description of cross-line fishing in lakes frequented by Salmon shall be prohibited, as it is in rivers.

6.—‘ That the privileges and extent of all river and estuary fisheries for Salmon be ascertained and defined, pursuant to, and in conformity with, established and existing rights.

7.—‘ That different open and close seasons shall be fixed for different rivers; and that the bag-nets on the coast shall be bound to the same open and close season as the river to which they pay the protection cess.

8.—‘ That the same close season shall be fixed for the taking of Trout as for Salmon, as many Salmon are destroyed in the close season on the pretence of fishing for Trout.

9.—‘ That angling shall be stopped in each river on the same day as every other description of fishing, since, if a fish is unfit to be taken by one mode of capture, it should not be taken by another.

10.—‘ That there be a minimum penalty in every case of not less than £2, or two months’ imprisonment, without right of appeal, and that warrants issued by Magistrates shall be levy and body warrants, embodied in one, so as, failing the goods, the police may take the offender, the same as in revenue cases.

11.—‘ That no person shall fish, by any means whatever, in any river or tributary thereof, or estuary, where the tide ebbs and flows, nor within one mile of low-water mark from the mouth thereof, at any season, without the leave of the proprietor.

12.—‘ Forfeiture of all instruments or engines used in taking Salmon or Trout by poachers within the limits of fisheries; and that all nets, spears, gaffs, or other instrument or engine found in the possession of unauthorized persons, in or on the bank or banks of any river or lake, be taken as *prima facie* evidence of intention of fishing, and punishable accordingly.



13.—‘ That angling as well as other fishing shall be prohibited on Sundays.

14.—‘ That the weekly close time shall be for draught net fishing, from the low water next in point of time after six o’clock on Saturday evening to the low water next in point of time before six o’clock on Monday morning.’

A memorial to his Excellency, founded on the above Resolutions, was then drawn up and approved of, and directed to be forwarded to his Excellency by Dr. Shiel.

(Signed,)

JOHN LITTLE,

*Chairman of Committee.*

## IX.

The following extracts are made from an instructive and impartial article on ‘Salmon Fisheries,’ in the *Quarterly Review*, vol. xxxvii., 1828. The question of the propriety of Fixed Engines is well discussed, and that one—which contains much difficulty—as to the boundary *riverward* of which fixed nets ought to be prohibited, receives some elucidation:—

“The great labour constantly required in the management of movable nets in rivers, and the number of fish which occasionally make their escape to the higher stations, led, at an early period, to the erection of a fixed apparatus of wooden lattices, or wicker-work, for the purpose of intercepting the migrating fish, and directing them into suitable labyrinths for capture. These engines, anciently termed *kidels* in England, and more recently fish-weirs, or locks, and *cruives*, in Scotland, differ in their form, extent, and composition, according to the resources or ingenuity of their proprietors. In many cases they extend across the stream from bank to bank, and consequently intercept all the fish on their way to higher stations, and thus secure the monopoly of the stream. Where the whole river and its streams belong to one proprietor, such an engine would unquestionably be the most efficient and the least expensive, and might be so constructed and regulated as to be perfectly harmless. But where different proprietors have an interest in the river and tributary streams, the use of such an apparatus is equivalent to the monopoly of their fisheries. Even if this engine extended but a short way into the water from each bank, so as to leave a free space in the middle of the stream, of such an extent as it should, according to the ordinance of Alexander III. of Scotland, ‘in all parts be swa free, that ane swine, of the age of three zears, well fed, may turne himself within the streame, round about, swa that his snowt nor taill sall not touch the bank of the water,’ or according to the interpretation of competent authority, ‘be free from any hedge or heck, palisadoes, or rails, placed for interrupting the Salmon,’ still this space can be so easily filled up by a temporary apparatus, as to enable the engine to intercept all the running fish; and there is abundance of evidence in the Reports to lead to the conviction, that the abuse now referred to is in full practice at all the *kidels* and *cruives* in the United Kingdom.

“In our opinion, fixed engines of this description, on all rivers with mixed property, should be everywhere abolished, agreeably to the

declaration of their illegality in MAGNA CHARTA, where it is ordained, 'Omnes kidelli deponantur de cætero penitus per Thamesiam et Medweyam, et per totam Angliam, nisi per costeram maris.'

"Where such engines exist, by any supposed right which a court of law would sustain, the other proprietors of fishings in the rivers should be furnished with a power to remove them upon payment of the value of the proven rent during fifteen or twenty years; and while in exercise, they should be restrained to the margin of the stream, so that a third or a half of the channel should at all times be free from obstruction."

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"Human ingenuity, we have seen, has been exhibited in the use of various engines to secure Salmon after they have entered the rivers; nor have devices been wanting to effect their capture while yet in stations under the influence of the tide. It has been stated that Salmon, when they leave their unknown haunts in deep water, approach the coast, and enter the estuaries, and there remain, moving about in shoals under the influence of the tide, until the rivers are in suitable state to receive them. To attempt to capture fish, in such situations, by the movable net, would be a wasteful expenditure of labour. In a river, this (movable) engine, if of sufficient size, gives the industrious fisherman a full command of the stream, especially if he arranges his resources so as to be sending out one net while he is hauling in another, as the proprietors of the more inland streams feel to their cost. In the estuary, and on the sea-shore, the varying depth of the water, the inequalities of the bottom, the comparatively limited space which the net encloses, and, above all, the frequent swell of the water, lifting the net from the bottom, and giving to the fish a ready way to escape, offer such obstacles to the movable net as to render it, in such stations, almost a useless engine. The method, which had so frequently presented itself to savage tribes, of employing a net to act by the ebbing and flowing of the tide, appears to have been in use on the British shores from an early period. It is the *kidel* referred to in Magna Charta, and the *novus mos piscandi* of Hector Boece. By means of upright posts fixed in the sand, and extending from the shore to low water mark, nets are kept suspended and stretched, so as to direct the fish, moving with the tide, into suitable courts or labyrinths, where they are detained and left accessible to the fisher, on the ebbing of the tide. These *tide-nets*, which in Scotland have obtained the denomination of *stake-nets*, capture *both* the fish moving into the estuary with the flood, and those moving out of the estuary with the ebb-tide. The fish which these nets entangle are in the best possible state, having recently arrived from deep water, and they are in a situation to be conveyed to the market in the speediest manner. Yet, in spite of the antiquity of this method of fishing, and its obvious efficiency, there are not wanting individuals who long for its abolition, and who wish it to be declared unlawful for a proprietor of fisheries on the sea coast to employ the tide to his advantage. Before, however, discussing this branch of the question, it may be necessary to inquire into the restrictions at present imposed by law on these tide-nets, and to what extent they may be employed, without injuring the public interests of the Fisheries.



"If we attend to the natural history of the Salmon Fry, we shall find, that in rivers, even where these are under the influence of the tide, the tender beings descend in myriads at the margin of the stream, but when they reach the head of the estuary, they betake themselves to the shelter of the deep and salt water. If fixed nets be erected in those places, in rivers which are frequented by the fry, the injury to the Fisheries, arising from their destruction, will be great indeed. It was to guard against this evil that they were prohibited in rivers in England, by *Magna Charta*, and in Scotland by an Act of Robert I., while they were left unfettered in their use on the sea coast. But at what point are we to assign the limit, riverward of which the tide nets ought to be prohibited? It is the want of precision, in our statutes, in reference to this point, that has created in our estuaries an extent of debatable ground, the disputes concerning which have led to the present parliamentary inquiry. It is fortunate for those senators, who are now called upon to legislate upon a subject which their predecessors overlooked, that there is a natural limit, riverward of which tide-nets can, in no ordinary circumstances, injure or intercept either the descending spawned fish or the fry; and that limit is the point where the river is intersected by the mean level of the sea, and where the fish, migrating downwards, avoid the margin from its turbulent character, and occupy the middle and bottom of the estuary. We are aware, that there is another natural limit, which has been proposed, viz., the point of constant ebbing or flowing, or point of stagnation at the head of the estuary. Though this point will seldom be far distant from the other, it is inferior to it in permanency of character, since it will be found more seaward in winter than in summer, and during floods than in the ordinary state of the river, as it is the point where the antagonist currents neutralize each other in a common level.

"If tide-nets be permitted at the mouths of rivers, even for some distance seaward of the point where the river naturally ceases, they will be productive of two evils, against which it is necessary to guard. They will interrupt the trade in the river, in ships and boats, and thereby prove a nuisance in a commercial country. They may be so arranged, even when prohibited beyond low water mark, as to intercept all the fish about to enter the river, and thus deprive the proprietors of inland fisheries of all share in the spoil. But both these evils admit of a very simple remedy. In no case, in an estuary having a *bar* at its junction with the sea, should the outer posts of the nets extend beyond low water, so as to preserve entire the full stream of the river to the sea; and in no case should they occupy a space on the banks on each side of the estuary, exceeding the tenth part of the breadth occupied by the water at the flood of neap tides. By such an arrangement, the navigation of the head of the estuary would not be interrupted, or monopoly of the fish acquired.

"It is not to be disguised, that tide-nets, even when restrained in estuaries within the limits now recommended, have been held up to public odium, as detrimental in the extreme to the true interests of the Fisheries, and as interfering with the natural and vested rights of the inland proprietors. After an attentive examination of all the objections to the use of tide-nets, we have been led to trace them, exclusively, either to ignorance of their real nature, or to the most unjusti-

fiable selfishness. It was, at one time, confidently asserted, that the tide-nets destroyed the fry, and the descending spawned fish; but we presume that this idle declamation has ceased, since the publication of the Reports, wherein it is demonstrated that the places most suitable for the erection of tide-nets, under the limitations already noticed, are those places which neither the fry nor the spawned fish frequent.

"It has been somewhat hastily announced that Salmon, being bred in rivers, belong to the owners of river property, and not to the proprietors on the banks of the estuaries or the sea shore. In this view of the matter it seems to be forgotten that the fry leave the rivers as speedily as possible, to obtain in the sea those sources of nourishment suited to their youth, which their birth-place cannot afford them. But if we must admit that Salmon are the property of those in the fords of whose streams they have been bred, then those only ought to have liberty to catch fish who have spawning fords; and the numerous and important fisheries, at present the most valuable in the kingdom, which are situated in rivers near their confluence with estuaries or the sea, must be proscribed as scenes of poaching,—a conclusion, we suspect, not very acceptable to many who have urged the objection with great vehemence."

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## X.

### HISTORICAL SKETCH of the BRITISH and IRISH FISHERIES. Compiled by SIR T. CHARLES MORGAN, M.D.

"Fish being an article of produce that pays no rent, a free gift of nature to the captor, the employment of the fisherman might be thought fully equal to take care of itself, and to require no *encouragement*, to call it into activity. It is therefore not without surprise that the inquirer learns the vast efforts made by powerful nations to create a fishery, and so often made in vain.

"The solution of this seeming paradox lies in the perishable nature of the commodity, and the consequent disproportion between the cost of taking and that of preserving and conveying it to the distant market. To transport fish in a fresh condition, so rapidly enhances its price, that, at a small distance from the sea, it becomes an article of luxury; and its market is restricted accordingly. The inferior kinds only can be generally offered for sale at prices which permit their being used extensively as articles of ordinary diet; and these are so inferior in nutritious qualities, and so much less exciting to the palate than animal food, that the people who can afford to purchase meat, will not largely consume them. Except during the gluts of mackerel and herrings, the artisans of London very rarely purchase fresh fish; and the cured fish they decline altogether, or nearly so.

"To obtain an extensive sale for this article, it is for the most part necessary that it should be subjected to the processes of curing, and rendered capable of conveyance to far distant markets. But the curing of fish, while it implies a considerable degree of art and some outlay of capital, so far decreases the estimation of the commodity in consumption, that salt fish usually finds a still less ready market than fresh; and in thriving communities, it is consumed only by the poorest



population, and at times when better articles of diet are scarce and inaccessible. The general use of even the best kinds is very much confined to Catholic countries; and depends rather on a dogma of religion, than on a principle of political economy.

"Fish, therefore, must be an object of commerce very readily liable to over-production; and sudden fluctuations in the quantity taken, greatly increase the difficulty of maintaining a proper ratio between demand and supply. The fish market is constantly varying between extreme points of glut and scarcity; and the necessary consequence must be a low average profit to those engaged in its capture.

"The fisheries, as an object of national importance, depend altogether on a demand for the salted article, and that too in some more extensive market than the immediate neighbourhood of the fisheries ordinarily affords. Before such a market is found, and rendered accessible, it is to no purpose that fish abound. They exist in the sea, as good land lies in the back settlements of America. Both are susceptible of supplying the wants of man; but both are useless, through their distance from a centre of distribution. Again, the most productive fishing grounds of the British Islands happen to lie principally off remote and ill-inhabited coasts; and before they can become extensively available to the native population, capital and industry must seek them out, and bring to the spot all the materials for curing and for fishing on a large scale. But in a climate tolerably genial, such a mode of investing capital would hardly be adopted, until the demands of agriculture and manufacture were tolerably satisfied.

"Accordingly, it was the Dutch, who, having little land to cultivate, and being dependent almost exclusively on commerce for subsistence, were the first to render the fisheries a staple of national industry; and they are still the only nation who have very largely depended on that species of wealth for the source of their prosperity. In England, from its earliest commercial existence, capital has found ample sources of investment without embarking largely in the Fisheries. Although its waters abound in fish, the trade for ages was very nearly confined to the supply of the local markets: and it was not until the time of the Stuarts that the fisheries excited public attention; when, owing to the political jealousies then commencing between England and Holland, the desire was formed of depriving the Dutch of their herring trade, and of thus crippling her warlike resources.

"In this anxiety to injure an enemy, the nation did not advert to the different situations of the two countries; but rushing at once into a cumbrous and expensive scheme for becoming *impromptu* fishermen, they entered blindfold upon a series of experiments, from which even now, they are not totally disengaged. The eagerness of the nation to jump to the desired conclusion, would not brook the naturally slow development of the trade; but strove by monopolies and privileges, by bounties, &c., to force it into a precocious maturity. The result was, (as might have been foreseen), reiterated failure; and it was not till the war of the French Revolution had utterly annihilated the Dutch commerce, that a real opening was made for the profitable investment of British capital in this branch of industry.\* To these causes of

\* "This eagerness to share in the spoils of the sea has not been confined to England. The idea of forcing a national Fishery has prevailed amongst most

failure, which circumscribed the growth of the British Fisheries, others peculiar to Ireland may be added. Besides the necessity imposed on the latter country, of following in the career of the former, two circumstances may have been active in drawing the attention of Ireland to the resources of its waters. 1st. The neglected state of the manufactures, and consequent want of employment; and, 2ndly, the periodical recurrence of local famines. The latter, more especially, could not fail to excite the attention of the public, by the dreary contrast it presented between starvation on shore, and an abundant supply of food existing in the neighbouring sea; a supply which wanted only to be taken, to become available to the wretched peasantry. Accordingly, the money raised by charitable subscriptions has more than once been spent in equipping the coast population to become fishers; and legislative efforts have been made to attain the same end, in a more permanent way.

“But, to look more minutely into facts, the people of northern Europe, during the middle ages, were reduced to live, during their long winter, very principally upon salted provisions; and the resources of the sea fishery could not have been neglected in those places, where fresh food of so relatively agreeable a kind, could be obtained, to vary the limited and unwholesome diet. From the process of taking fish, to that of curing it, the step is short and consequential.”

[A brief compendium is then given of the measures adopted for the promotion of the Scottish Fisheries.]

“Such is a very abridged history of the British Fishery Laws. It remains now to take up that of the Fisheries of Ireland. The resources of the Irish waters seem early to have attracted public notice. Sir W. Temple, in a letter to Lord Essex, 1673, says—‘the fishing in Ireland might prove a mine under water, as rich as any under ground;’ and so strongly was he impressed with this idea, that he proposed that no individual should be admissible into the House of Commons, nor entitled to a commission of the peace, unless he had taken a practical part in the encouragement of that branch of industry. So far back as the 5th of Elizabeth, an Irish statute prohibited foreign vessels from fishing in the Irish seas without a license. This license was taxed at 13s. 4d. annually, for twelve-ton vessels. Philip II. of Spain paid into the Irish Treasury £1,000 for liberty to fish the Irish coast; and in the reign of Charles I., the Dutch were allowed a similar license, on the payment of £30,000. In 1650, Sweden was permitted, as a favour, to employ one hundred vessels in the Irish Fishery—so little was the idea then entertained, that the resources of Ireland could, or should, be made available to the Irish subject. In the 7th Geo. II., an Act was passed for the encouragement of the Coast Fisheries. Two years afterwards, Mr. Doyle announced his discovery of a most prolific fishing ground, the Nymph Bank, off Waterford; and he published a proposal for supplying London, Liverpool, and Bristol, with fresh

of the European communities; and the means adopted by some of the governments of other nations, are set forth in the Appendix. Documents are wanting to furnish a just comparison between the cost of these efforts, and the returns; but the fact that such aid is still thought necessary to the existence of the respective Fisheries, bears strongly against the soundness of the policy which continues it.”



fish from the south coast of Ireland, by means of well-boats. The scheme, however, came to nothing, and it was not till 1786 that it was resumed.

"The system of bounties having taken root in England, was naturally adopted by the Irish Parliament, by 3 & 4 Geo. III., twenty shillings per ton was granted on all deep-sea fish; which was subsequently (25 Geo. III.) limited to fish for curing. The consequence of this change was great distress among the fishermen; and on the 19th of March, 1789, a petition was received from the Skerries fishermen, (the principal body,) complaining of having been ruined by fishing for the bounty on the north-west coast, under the new law; and praying for aid to pay their debts, and carry on the white fishing for Dublin market. By 41 Geo. III., a grant by the British parliament of £30,000 was dedicated to bounties for the supplying fresh fish to London, Westminster, or other town or city of Great Britain; and Mr. Frazer at this period, repeating Doyle's experiments, ascertained the abundant resources of the Nymph Bank; and the Marine Society of London accordingly, having built fishing vessels, for the supply of the London market, offered to let them on hire, to ply on this bank. The then Chief Secretary of Ireland approved of this plan, and recommended that two of these vessels should be engaged. In pursuance of the project, £6,000 was assigned out of the Parliamentary grant for the furtherance of the Irish Fisheries; but the recommendation was not followed to execution. In 1802 another effort was made by the Government in behalf of the Irish Fisheries; and Mr. Frazer was sent to Dublin with orders to hire vessels for experiment, and with permission to apply for revenue cruisers to assist in the furtherance of his object.

"At this time, says Frazer, well-boats were unknown in Dublin; but eighty-seven wherries, from twenty to fifty tons, and about eighteen yawls, supplied the city with all the fish it required. In this summer, Frazer proceeded with two hired wherries to the Nymph Bank, where he found abundance of white fish, and still greater quantities further to the westward. The presumed verification of the resources of the bank induced Mr. Secretary Wickham to recommend the formation of a company at Waterford, for fishing it with well-boats; 128 shares, of £50 each, were subscribed, the Government adding 10 per cent. to the subscription, and engaging to pay a bounty of 30s. per ton to the vessels so employed. The Government performed its part; but the spirit of party, says Frazer, got possession of the company, and its affairs were so mismanaged, as to inspire the notion that the object was to insure a failure. Frazer, however, succeeded in carrying a cargo of cod to London, which he sold to advantage. According to his authority, capital might have been successfully employed in the Irish Cod Fishery, between October and April, the boats being afterwards sent to the North Seas, off the Feroe Islands. Well-boats might also have plied successfully all the year round, in the Turbot fishery. In 1803, the Marine Society resolved that the Irish Fishery should be further pursued, and offered to subscribe to the Waterford company. The company, however, refused the offer, and the Society subscribed £20,000 to fish independently, and on its own account. But eventually their bill of incorporation was thrown out, and nothing further

was attempted. Frazer, meantime, made three voyages to Bristol, and sold his fish at good prices—the city paying a bounty of 2s. 6d. per cwt. on the cargoes. In 1804 the Waterford company dissolved.

“Another effort had been previously made by the Government in behalf of the Fisheries, under the management of the Dublin Society. For this purpose, 1s. per barrel duty was laid on imported herrings, to be expended in the encouragement of the north-west Fishery. This duty, by 23 & 24 Geo. III., c. 1, was raised to 3s. and by an Act of the following year, to 10s. (subsequently reduced to 9s.) In 1776–7 (17 & 18 Geo. III., c. 18), bounties were granted on ships prosecuting the white fishery, south of latitude 44°. In 1801–2 (21 & 22 Geo. III., c. 15), three Inspectors of Fisheries were appointed, and 6d. per pound sterling ordered to be deducted from the bounties for their payment. In 1785, £20,000 was granted to trustees, on the petition of William Conyngham, esq., for the encouragement of the Fisheries; 30s. per ton bounty was also granted to the owners of British or Irish Fishery vessels, up to the concurrence of eighty tons. Another bounty of 60s. was given for building vessels for the deep-water Fishery, on the north-west coast, to be launched before December 1st, 1788; and lastly, bounties were granted on the export of fish, fish oil, and whale-bone, not being for Great Britain or the Isle of Man. The Inspectors, too, were at this time increased to five, and 1s. in the pound sterling stopped for their salaries. By the same Act, fishing vessels were required to bear distinguishing marks, the size of the meshes of fishing nets was regulated, and the season for taking oysters was subjected to rule. By 25 Geo. III., c. 65, it was enacted, that £20,000 might be raised on the estate of W. Conyngham, esq., for the same purposes as the preceding grant to that gentleman. On the following year, bounties were extended to vessels not under twenty tons, and an export bounty of 2s. 2d. per barrel on herrings was granted. At the same time £10,000 were voted to certain individuals, for building accommodations to fishermen, and improving the navigation of Lough Swilly—the parties advancing an equal sum. In 1786, barrel bounty was raised to 4s., and premiums offered of eighty, sixty, forty, and twenty guineas respectively, on the four greatest quantities of herrings taken between January 1st, and December 31st of that year; 3s. 3d. per cwt. also was given on the export of white fish, in lieu of the bounties granted on that article by 25 Geo. III., which were repealed. In the year 1791 (32 Geo. III., c. 23), the bounties of 25 Geo. III. were continued till the 25th March, 1795, and from this period, by a succession of prolongations, (and with some insignificant change of detail,) this statute continued to be the great regulator of the Irish Fisheries, until the year 1819, when the Irish Fishery Board was instituted. Of the proceedings of this body, and their results, particulars will be found in the succeeding pages. It continued in activity during ten years, which may be considered as the period of greatest activity in the Irish Fisheries; and with its existence closed the long succession of efforts to establish the Fisheries by pecuniary encouragement. The abolition of bounties, (and consequently of the Irish Fishery Board,) was the work of public opinion, which, as usual, followed lagging in the rear of the march of events. From the year 1830 to the present time,



an interval has elapsed, marked by a reaction, consequent on the previous stimulation, and by a languor in the so-favoured branch of industry, which has called forth the present Commission.

"In retracing the facts spread through a period of more than two centuries; the reader cannot but be struck with the repeated failures of successive efforts to create a domestic fishery, both in Great Britain and in Ireland. By some, these are attributed to errors of management, and to a premature abandonment of the measures of encouragement; and the averment perhaps may be partly true; but it is impossible to overlook the fact, that amidst all the efforts of Government, and the popular enthusiasm in favour of fisheries, they have not been a favourite speculation with capitalists, so that mercantile enterprise has been far from going hand in hand with administrative liberality. To this statement the Scotch Fishery alone affords an exception;—what inference should be drawn either from the rule or from its exception, the reader will determine for himself; but it does not seem too much to affirm on experience of the past, that whatever value to individuals may be set on any assistance which Government may hereafter think right to afford the fishermen, through any better-directed system of encouragement, the trade must still eventually stand or fall by the spontaneous efforts of the parties interested, and the stimulus of remunerating markets."

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## XI.

### EXTRACT from the SIXTEENTH ANNUAL REPORT of the COMMISSIONERS of PUBLIC WORKS.

GENERAL OBSERVATIONS.—No branch of the industrial resources of Ireland suffered more severely, in the first instance, from the famine and distress of the years 1846–1847 than the Fisheries, both deep sea and inland. This anomaly is the more remarkable where their great capability of productiveness was so well known, and where, in the natural order of things, a people curtailed in the supply of the fruits of the land, might have been expected to avail themselves of the bountiful supplies of food which the surrounding sea afforded. Yet it is a fact that, in the autumn of 1846, when the impending famine was certain, and when deaths from starvation had already occurred, supplies of fish, the most abundant which had been known for years, existed on many parts of the coast, and that on parts of the southern and western coasts, large quantities of fish were allowed to rot on the shore, or were spread on the adjacent fields for manure.

This extraordinary state of things resulted partly from a prejudice against the use of fish as a dietary, without potatoes, partly from the utter prostration and distress which the want of food produced, (and which compelled the coast population to part with their boats, tackle, &c., as well as every other implement or means of earning a livelihood for food, to maintain their very existence,) but mainly from the fact, that the fisheries of this country, however valuable or important, were not fixed on the solid basis of an established trade, nor were followed or maintained as a real commercial undertaking for the profit which they would directly yield.

In our monthly reports, and in several other papers published in the Relief Correspondence laid before Parliament during this eventful period, these facts, their causes, with some of the measures proposed for their remedy, were put forward.

Whilst the deep sea fisheries were injuriously affected by the withdrawal of boats and tackle, left to rot on the shores, or in pawn offices, and by the fishermen themselves resorting to the more certain and ready means of public works, and soup kitchens, for the bare support of life; the inland fisheries were materially injured by the increased infringement of the laws, passed for their protection and improvement.

The close season prohibitions were openly violated, when it was felt to be difficult to enforce regulations, that were met by the plea of want of food; and it is much to be feared, that in consequence, a general disregard for the most useful regulations of the law, has supervened to an extent that has caused much mischief already, which it will require much time to correct and remove.

Whilst such were the depressing results of the famine in the first instance, there are still strong grounds for hoping that those very results, by exposing the unsound and undeveloped state of one of the most valuable (and which at the same time it would be easy to render most available) of the resources of the country, will have their good effects.

The fact of great numbers of persons dying from want of food (or such profitable employment as would enable them to buy it), along the shores of a sea abounding in fish, and which was calculated to afford remunerative employment in its production, has established beyond all controversy, the necessity for permanently developing and relying upon the fisheries in this country as a source of industry and trade, and consequently of food.

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## XII.

### THE RIVERS OF IRELAND.

Edmund Spenser, if not a follower of rural sports, was a keen observer of them. The allegoric passages drawn from that of Hawking, so frequent in the 'Faerie Queene,' are depicted with the accuracy of a practised falconer.

In his poem of 'Epithalmion,' he invokes the water-spirits of the river Aubeg, or the 'Narrow-water,' the stream passing under his residence of Kilcolman:—

Ye Nymphes of Mulla, which with carefull heed  
The silver scaly trouts do tend full well,  
And greedy pikes which use therein to feed;  
(Those trouts and pikes all others doe excell;)  
And ye likewise, which keepe the rushy lake,  
Where none do fishes take.       \*       \*       \*  
And eke, ye lightfoot mayds, which keepe the deer,  
That on the hoary mountayne use to towre;  
And the wyld wolves, which seeke them to devoure,  
With your steele darts doe chace from coming neer;  
Be also present heere.



The poet, in describing this country as once deriving much of its picturesque attraction from wood, takes notice of the abundance of her rivers and lakes:—

Whylom, when Ireland flourished in fame  
Of wealth and goodnesse, far above the rest  
Of all that bear the British islands' name,  
The gods then us'd (for pleasure and for rest),  
Oft to resort thereto, when seem'd them best;  
But none, of all, therein more pleasure found  
Than Cynthia, that is soveraine queene profest  
Of woods and forests. which therein abound,  
Sprinkled with wholsom waters *more than* most on ground.

Spenser, in his 'State of Ireland,' after pathetically describing the 'lamentable desolation' and 'utter waste' brought upon the province of Ulster by civil war, breaks out into praise of the land:—'and sure it is yet a most beautiful and sweet Country as any under Heaven, being stored throughout with many goodly Rivers, replenish'd with all sorts of Fish most abundantly, sprinkled with many very sweet islands and goodly lakes, like little inland Seas, that will carry even ships upon their waters; adorned with goodly Woods, even fit for building of houses and ships, so commodiously as that if some Princes in the World had them they would soon hope to be Lords of all the Seas, and ere long of all the World. Also full of very good ports and havens opening upon England, as inviting us to come unto them, to see what excellent commodities that country can afford; besides the soyl itself most fertile, fit to yield all kind of fruit that shall be committed thereunto. And lastly the heavens most mild and temperate, though somewhat more moist than the parts towards the West.'

The chief rivers of Ireland are introduced by Edmund Spenser in his poetic allegory of the 'Faerie Queene,' in the episode of the 'marriage of the Thames and Isis,' after those of England:—

Ne thence the Irishe rivers absent were:  
Sith no lesse famous then the rest they be.

He thus alludes to that trio of noble streams whose confluence below Waterford forms the estuary and harbour of that city,—rising in the mountains of Leinster and of the centre of Munster, and conveying the waters of several shires to the ocean:—

These three faire sons, which being thenceforth poured  
In three great rivers ran, and many countries scowred.  
The first the gentle Shure that, making way  
By sweet Clonmel, adorns rich Waterford;  
The next, the stubborne Newre whose waters gray  
By faire Kilkenny and Rosse-ponte boord;  
The third, the goodly Barrow, which doth hoord  
Great heapes of salmons in his deepe bosome.

In the poem of 'Mutabilitie' he speaks of the vale of Tipperary as.

The richest champaign that may else be red:  
and of the

Faire Suir, in which are thousand salmons bred.

The immense extent of country 'un-watered' by these great rivers is only inferior to that drained by the Shannon: with their many tributaries they afford a vast and fruitful field for the production of the salmon tribe, which, if assiduously protected, would yield a large

amount of commerce and employment. The Waterford estuary, 'fruitful and full of branches by reason of many waters,' is the most valuable fishery in Ireland, because, though supplied from a less area than the Shannon, its productiveness is not similarly injured by a solid weir at the entrance.

The lakes and rivers of Ulster appear to have always abounded in fish in a more remarkable degree than those of other parts of Ireland, probably owing to the greater humidity of its climate, adverted to by Spenser, and also to their northerly situation.

The produce of the two Banns, the Foyle, and Blackwater, doubtless greatly assisted the last Irish prince of Ulster to make successful head against the English power for so many years. Not only his 'fastnesses and places of strength' lay in the wooded glens between these rivers, and under the mountains of Tyrone, but the provision their waters afforded enabled him to winter his native forces and Scottish auxiliaries in the islands of Lough Neagh.

Who has not heard—while Erin yet  
Strove 'gainst the Saxon's iron bit—  
Who has not heard how brave O'Neil  
In English blood embrued his steel,  
Against St. George's cross blazed high  
The banners of his tanistry,  
To fiery Essex gave the foil,  
And reigned a prince in Ulster's soil?  
But chief arose his victor pride,  
When that brave marshal fought and died,  
And Avon-Duff to ocean bore  
His billows, red with Saxon gore.

THE SHANNON.—This beautiful and majestic river, characterized by Spenser as 'the spacious Shenan spreading like a sea,' is not only 'the principallest of all in Ireland,' according to the quaint old naturalist, Dr. Boate, but 'the king of island rivers.' Its waters are broad and navigable at a distance of upwards of two hundred miles from their *débouchement* into the Atlantic. The rivers of Great Britain can be traced only as inconsiderable brooks at such a distance from their mouths.

Taking its rise among the hills of Leitrim, it pursues its course through ten different counties, proceeding in an ample current, or spreading into wide lakes. The vast watery district it embraces,—the upper waters flowing in from an area calculated at four thousand five hundred square miles—its numerous tributary streams and extensive inland lakes—together with its great tidal estuary of sixty miles in length, into which several large rivers flow,—must be considered in its piscatory relation as the monster reservoir of Ireland.

The spawning grounds furnished by such an extent of country are necessarily very numerous, and capable of producing much value. Many deep and spacious loughs afford refuge for the parent fish before and after depositing their spawn, as well as for the tiny brood. Such retreats are very advantageous to the fish;—their absence in other districts is detrimental to the increase of salmon, particularly in dry seasons, when the waters become low in smaller rivers which are not supplied with lakes or deep pools.

When the great extent of the Shannon and of the rivers connected



with it is taken into account, measuring altogether hundreds of miles, and when the natural character of a great proportion of these waters is considered, the beds over which they flow being so well suited for the reception of salmon *ova*, an estimate may be imagined of the wealth which might be derived from them, if a care was bestowed upon them adequate to their importance in a piscatory point of view.

THE IRISH LAKES.—Ireland possesses not only the largest river in the British islands, but also the largest inland sea, Lough Neagh. It is fifteen miles in length, and twelve broad, and the area covered by its waters are estimated at one hundred thousand acres. Its shores, though destitute of the interest of scenery, are cultivated by an industrious and intelligent people.

The lakes of the Erne, in Fermanagh, are celebrated for their romantic scenery: the neighbouring Lough Melvin is well known for its abundant supply of salmon and trout, and there are few districts in Ireland which attract more visitors for the amusement of angling. Those of Killarney are superior in every attraction to others in the island. The wild mountainous Lough Corrib and Lough Mask, the picturesque Lough Gill, and the minor loughs Conn and Cullin, are the principal lakes of Connaught. Their extent, solitude, and stern scenery, with the agreeable pleasures the country affords to a sportsman, will certainly cause them to be more frequented than they now are.

### XIII.

#### ANGLING IN IRELAND.

Although Angling does not enter into the catalogue of rural sports, for the encouragement of which a distinguished politician used to say he would willingly bring in one bill to make poaching felony, another to encourage the breed of foxes, and a third to revive the decayed amusements of cock-fighting and bull-baiting—that he would make, in short, any sacrifice to the humours and prejudices of the country gentlemen, in their most extravagant form, providing only he could prevail upon them ‘to dwell in their own houses, and be the patrons of their own tenantry,’—yet the earnest eloquence of Isaac Walton has ranked it high in the list, as a peaceful and humanizing pastime. It also offers a means by which the well-being of the Irish people may be advanced, in promoting a happy intercourse between them and the higher classes of their own and of the sister island, as well as in attracting visitors to her romantic and inmost recesses, and in assisting to raise the prosperity of one of her natural resources.

To this adaptation of human enjoyments to subserve a good purpose the benevolent mind of Sir Walter Scott was remarkably alive, and those of statesmen have been frequently awake. It is to be found gleaming through his beautiful compositions, and especially in that from which the passage above is partly taken, his essay on Ornamental plantations and gardening, in which the value of a taste for country pursuits and pleasures is referred to, and Pope’s celebrated apology for profuse expenditure in buildings and grounds is quoted:—

Yet hence the poor are clothed, the hungry fed,  
Health to himself, and to his children bread,  
The labourer bears.

With similar views, and with a knowledge of the civilizing effects of agreeable country residences, the lordly Strafford, when viceroy of Ireland, writes in a despatch dated 1634, 'there is a great want of good houses in this kingdom, which may be an occasion they (the nobles and gentlemen) take not that delight in their abodes in the country, as otherwise I am persuaded they would, found they at home decency and handsomeness to entertain them.'

The rebuke of James the First to the country squires who thronged his court will be remembered, reminding them that they were like great ships in a river when at home, while in London they were only like small boats in the sea, or minnows among tritons. In his son's reign measures were taken to promote rural sports, and the game laws were rendered stringent.

It is well known that the absence of 'game' in Ireland is one of the causes that leads a man of fortune to become an absentee; he quits his own property in this country, and often spends the income from it among English preserves, or on the moors of Scotland. Yet Ireland possesses in her inland streams an attraction that might not only keep him at home, but even prove sufficient to induce some of the wealthy of the sister countries to reside amongst us. Ireland has been said to be 'the classic land for the exploits of the water sportsman.' Daniel writes, in his *Rural Sports*, that 'the waters of Ireland abound in all that can invite an angler to their banks; perhaps they are better stored, and the fish contained in them of a size superior to those found elsewhere in the United Kingdom.'

A very interesting fishery exists in the lakes of the Shannon, and particularly in those situate in the county of Westmeath. These lakes abound in trout of large size and superior quality. A basket of eight or nine fish, averaging three pounds weight, is not an unusual result of a day's fishing. At one season of the year the "green drake," appears; this is a green fly, which rises from the bottom of the lake to the surface, and, when emerging from its shell, is greedily taken by the fish. Trout are taken in great numbers at this time. Persons from all quarters assemble to take part in the amusement,—many come over from England for the sport,—the hotels are filled, and lodges and cottages in the vicinity of the lakes are fitted up for their accommodation—a number of boats are built and equipped, and an important amount of employment is given in many ways. The 'drake' season, which lasts some weeks, is looked forward to anxiously by those who derive profit or subsistence from supplying the visitors with the many things they require, and in attending them in boats upon the lakes.

The lakes of Killarney were at one time resorted to by numbers of persons for the sake of the salmon fishing, but, owing to the erection of Scotch weirs in the river by which these waters are discharged into the Atlantic, at length scarcely a single salmon ascended to them. After the Act of 1842 was passed the resident proprietors succeeded in having several of these weirs prostrated, and the lakes are now remarkably well supplied with fish. The suggestion may be offered that the use of nets in these lakes is to be lamented, and that the amusement of *good* angling, added to the pleasures which the exquisite scenery of Killarney affords, would greatly increase the number of visitors, and in that manner add to the wealth of the neighbourhood.



Fly-fishing may be found in the highest perfection in other parts of Ireland which are less frequented. By careful preservation the landed proprietary of many wild and mountainous districts might derive a little revenue and benefit from their streams analogous to that which the moors of Scotland return to their proprietors, by the influx of sportsmen. Is it not somewhat an oversight on their part not to cultivate these waters, while their lands must long remain profitless?

Among those who were examined before the late Select Committee on the state of the Inland Fisheries of Ireland, was Mr. Richard Allen, sergeant-at-law, a member of the English bar, who gave much interesting evidence as to his visits to this country for the amusement of angling. He had ten years previously published a memoir of his tour, describing the pleasure he had derived from it, and giving descriptions of parts of Ireland of which little had been known to visitors before. So many anglers were attracted to visit these places in consequence, that on the Waterville lake, in the Ivera mountains, two inns have been built for their accommodation, and the place has been since much frequented, greatly to the civilization and assistance of the people there. Several good houses have also been built, which are occupied by gentlemen who come to angle upon the lake.

Mr. Allen's evidence may be adduced to show that recent legislation on River Fisheries has tended to diminish the means and power of angling in Ireland. He complained that the Act of 1842 confirmed certain exclusive and monopolizing privileges to individuals, in many cases transferring to them the fish which hitherto might have been taken by the public at large; and that these privileges were let to a few parties, and their produce sent away to a distant market, the rents being mostly, also, remitted to England. He thought that a freer fishery would induce persons of property to reside in Ireland, and adds, 'such is the beauty of that country, the fertility of the soil, and such the kindness and good conduct of the people (and I walked through the whole of it, and speak advisedly when I say, that a population more inoffensive I never passed through)—I say that these circumstances do offer vast inducements to persons of independent property to go there, and if property could be purchased, to reside there.' The Act for facilitating the sale of Encumbered Estates has removed difficulties in the way of purchase, and it may be noticed, that in the numerous advertisements, either for the sale or letting of demesnes, the existence of excellent fly-fishing is sometimes mentioned as one of the *agrèmens*.

Although very many exclusive rights of fishing are claimed in the fresh water portions of the rivers of Ireland, it is an acknowledged fact, and one which, it is to be hoped, may be generally known and acted upon, that there is a greater freedom of access for anglers to the Irish streams than is permitted to those of Scotland. The well known anecdote in the history of that country of Sir William Wallace, its noble defender, will perhaps occur to the reader's memory; how, when he was but a stripling, he went a fishing in the river Irvine, near Ayr, and having caught a number of trout, the boy who attended him was carrying them home, when some soldiers of the English army, which then garrisoned Scotland, came up, and insisted with much insolence on taking the fish from him. Wallace was willing to allow them a

part of the contents of his basket, but refused to part with the whole. The soldiers persisted, and from words came to blows. The gallant Scot resisted these odds, though with no better weapon than the butt-end of his fishing rod, put the invaders to flight, and brought home his fish safe and sound. The brotherhood of the angle have the character of being of a peaceable disposition, and in these days will hardly quarrel with any on the score of a few fish: those of the fraternity in Ireland would rejoice to see their English and Scottish brethren invading their land, armed with rod and line, and intent on carrying off a larger basketful than themselves.

The effect of the observance of the "weekly close time," in allowing a fair share of the fish to ascend to the upper waters has, in districts where it has been properly observed, greatly increased the number of persons who fish in the fresh water streams for sport or as a means of livelihood. By the return of licences taken out last year, it appears that 763 licences for salmon rods were sold. The number for the present year will probably be far more. In the Wexford district 16 were taken out last year, and upwards of 50 in the present. There are a considerable number of men throughout Ireland who follow the *calling* of taking fish by rod and line, and earn their living by that means, and by attending upon sportsmen. In some rivers, and at some periods, the occupation is remunerative enough. It is stated in recent evidence that thirty-four salmon were killed in sixteen days by one man. Forty-six is the largest number which is stated to have been taken in one week by a single rod.

To revert to views that have been so frequently expressed, as to the policy of encouraging a spirit of protection in the upper portions of rivers, by rendering them sufficiently productive to make the pursuit of fishing in those districts a frequent pastime for the gentry, and a source of lucrative occupation to numerous practised and professional anglers,—although it is hard to imagine that many Irish rivers, long neglected, will become so *populous* in fish as to insure the latter desirable result,—nevertheless, it must be admitted that this object should be held in view, and that endeavours should be made in that direction; in effect, to give those who can best protect the weak points, the nurseries of fisheries, an interest in, and a will for the purpose, so as to enlist country gentlemen as voluntary conservators, and, if possible, convert poachers and spearers into water bailiffs and innocuous fishermen.

The resort of British gentlemen to Ireland for the indulgence of the simple and gratifying recreation of Angling, which brings them in contact with the Irish peasantry under agreeable circumstances, and when the pleasures of the pursuit warm the hearts of different grades of men towards each other, might often result in their visits being prolonged into permanent residence, and in valuable advantages to this country, which their adoption of it would certainly give rise to.

#### XIV.

#### NOTES ON SALMON FISHERIES.

"There are no fewer than forty-two salmon weirs on the Blackwater between Youghal and Lismore; the one immediately under the castle is the last and most productive; where it is by no means rare to take



600 fish at a haul. The fishery is rented from the Duke by Mr. Foley, at a rental, we were informed, of £700 per annum. The fish, being property, are consequently preserved; and the water is not free to the angler; although he may, and we believe often does, obtain the privilege to fish there from the courtesy of the renter.

"From all we have heard and seen, we consider there is no spot in Ireland that offers to the angler so many temptations; the scenery is everywhere delicious; the banks that immediately skirt the river are not inconveniently crowded with trees; the accommodation at the inn is unexceptionable—the charges small, the rooms comfortable, and the servants attentive to a degree; above all, the river is thronged with salmon, and abounds with the finest trout. It is no exaggeration to say that we saw the salmon leaping in hundreds. Circumstances prevented our being able to throw a fly until the evening of the day after our arrival; and as our stay was brief, we had but a couple of hours to devote to the sport—a sacrifice of enjoyment to duty which all brethren of the angle will understand and appreciate. Our recompense was, therefore, but a brace of fish—comparatively small in size, for the largest weighed but ten pounds and a quarter. If the river in the neighbourhood of Lismore were free, we doubt if there be any place in the United Kingdom that would promise so ample a recompense to the votaries of the gentle craft; and we presume to hint that so great would be the consequent influx of visitors to his beautiful town, that a far greater revenue would arise to the Duke than that which he derives from the rental of the weir."—*From Mr. and Mrs. Hall's "Ireland."*

**SPENT FISH.**—The law very properly requires that all Salmon and Trout that have recently spawned shall, when they are caught, be returned immediately to the water without injury, and makes the possessor of fish in that condition liable to a penalty. Fishermen have given it as their opinion, that 'spents, if they were as delicate as egg shells' when taken in nets, can be so returned without being in any degree injured. It is of consequence that the Close Season should be so regulated as to avoid, as far as possible, that any spent fish should be liable to be taken, or otherwise it may be said that the law in one point holds out an inducement to its violation in another.

One of the witnesses before the Select Committee of 1824, who at that time paid a rent for fishings on the Tweed to the amount of £5,000 a-year, mentioned that Salmon were in a very unwholesome state some days previous to, and a month after spawning, and that he had heard of an instance of a whole family dying in consequence of eating salmon in that state.

It was formerly the practice in Scotland to preserve, or 'kipper,' unseasonable fish. Isaac Walton uses the word 'kipper' as expressive of fish in that condition.

**DIFFERENCE OF VALUE OF SALMON.**—Mr. James Bell, a renter of fisheries in the Tay and Tweed to the amount of £9,200 a-year, stated in evidence before the Select Committee of 1824, that salmon taken in the stake-nets were often inferior to those taken by net and coble, because, unless removed before low tide, the water receded, and left the fish floundering about, heated, and dying.

Mr. J. Crawford, who has been long engaged in the Waterford salmon trade, stated before the Select Committee of 1849, that as good

sale could not be made of salmon caught by the fishermen with cots and nets, as of what were caught by the weir, for that by plunging about in the nets they are apt to knock their scales off and injure themselves.

With respect to the difference between the value of a salmon taken in the sea or in the fresh water, he stated that the London salesmen give fourpence a pound more for a tidewater fish, caught near the mouth of a river; that fish going up and remaining above three weeks out of the tidewater into fresh water become 'grey,' and of a gluey fat nature, and that salesmen mark in their account the number of grey fish fourpence per pound less than what they pay for the tidewater take.

**BURNING THE WATER.**—In Scotland this illicit practice is termed "blazing," and the fire is frequently carried about in a machine called a "cruizie." The spear used is called a "lester" (in Ireland a "lyster.") Parties of as many as twenty or thirty men sally out after nightfall, one man walks in the centre carrying the "blaze," a faggot made of dry fir, sometimes dry broom, stuck on a pole, this he raises high above his head; there are generally two persons, walking one before, the other behind him, carrying the lester, or three-pronged spear.

In Ireland the light is often a torch of bog-fir, or the readier expedient of a wisp of straw and lucifer match, especially when the poacher apprehends detection. The spear commonly used is not tridental, but has from five to seven prongs. The fire throws a strong glare on the water, and the fish are easily seen and struck. It is only during the close season that salmon are thus accessible, when they are on the spawning beds; at an earlier period they are in deep water.

This practice is perhaps the most destructive of any to the increase of river fisheries, whether considered as the taking of fish hardly fit for human consumption, or, in the more consequential view, as destroying them at the very period when about to accomplish that surprising power of increasing and multiplying their species with which nature has endowed the salmon tribe.

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## XV.

### SCOTTISH SEA FISHERIES.

The recent examination by Captain Washington, by direction of the Admiralty, into the disastrous loss of life, and damage to fishing property, on the east coast of Scotland, in the gale of the 19th August, 1848, and his interesting report, elicit some remarkable facts connected with sea-coast fishing. On that part of North Britain, the calling is prosecuted in small open boats, which nightly leave the harbours, and return laden with herrings during the season, in a fresh state for the curer. The rocky character of the shore makes it impossible for the fishermen to beach their craft—a class of boats not calculated to outlive a storm, and therefore dependent on shelter. Considerable loss of life and boats had previously occurred before the date above mentioned; but on that melancholy occasion, 124 boats, belonging to five of the principal fishing towns, were lost or damaged, by which, (besides a loss of nets, &c., to the value of £7,011,) more than 100 men were drowned, leav-



ing 47 widows, and 161 children, totally unprovided for—‘a calamity without precedent in the annals of the British Fisheries.’

The Report observes that it must be remembered the loss of the boats, &c., does not fall upon fish-curers or merchants, but upon the poor fishermen alone, many, if not most of whom, are rendered destitute by it. Harbour accommodation appears to be insufficient, either in capacity or accessibility at low water, to the large fleets that resort there—as many as 800 belonging to the town of Wick alone. Parliament has since voted a sum of £6,000 for the repair of one of these safety harbours.

The extent to which great local improvements have been stimulated, by the small sum annually allotted to piers and harbours in Scotland, is noticed. The following extracts are taken from the Report:—

“In reviewing the evidence adduced on the present Inquiry, it cannot fail to strike the most cursory observer, that the want of good harbours, accessible at all times, is the grand cause of the loss of life and property, and the increased risk connected with our Fisheries. It is not the construction of two or more large central harbours of refuge (as has been suggested) that is wanted; but a general deepening and improvement of all the existing harbours and rivers, along the whole eastern coast of Scotland. Nor would the improvements of these harbours be attended with any very considerable outlay. It is scarcely credible that the small sum of £2,500 a-year, which Parliament has devoted to building harbours and piers in Scotland, for the last few years, should have given so great a stimulus to important local improvements as those grants are found to have done. But they are quite inadequate to grapple in earnest with the wants which exist. Four times their amount, or £10,000 a-year for a few years, steadily laid out on piers and harbours, would do much to remedy the want, and to place the fishermen of the east of Scotland on a par with those of more favoured coasts. It would be an act of mercy to a race of hardy, industrious, frugal men—to 10,000 fishermen of one of the poorest and most unproductive districts of Scotland, who are not at sea as occasional passers-by, but are constantly hovering off the coast in pursuit of their calling, for three months together, exposed to the suddenness and violence of North Sea gales, such as that of August, 1845, and again in August, 1848, without the common shelter that all mariners are entitled to look for in the hour of need.

“The value and importance of the Fisheries, in several points of view, but especially as an inexhaustible source of abundant and nutritious food, seem hardly to have been sufficiently considered. By the Report of the Commissioners for the year 1848, it will be seen that the quantity of herrings cured during that period, was 644,368 barrels; besides which, the quantity taken and sold for immediate consumption, was 354,977 barrels, making the total produce of the British herring fisheries for the year to amount to 999,345 barrels, in value probably about one million sterling. During the same period, it appears that 364,951 cwts. of cod and ling were taken. The boats employed were 15,062, manned by 60,346 fishermen and boys, and the whole numbers of persons engaged in curing the fish, &c., was 97,477. The tonnage of vessels employed in conveying salt, and in exporting herrings, was 66,214 tons, and the total value of boats, nets, and lines, amounted to

£1,250,078; that is to a million and a quarter of money, not the capital of merchants or fish-curers, but the property, and in many cases the only property of the poor fisherman, who if he loses his boat loses his all. The above are large and valuable interests, and recent circumstances have increased, and are daily increasing their value. Our coast railroads have become the means of creating and supplying the great demand for fish in the interior of the country. The quantity of herrings consumed fresh, or disposed of immediately after being caught, during the past year, greatly exceeds the return of any former year; showing that the facility which exists for transporting fish, is already producing its effect on our Fisheries, and is likely greatly to increase the demand. Not impossibly, too, the recent alteration in the Navigation Laws may induce vessels from France and Spain to resort to our shores to purchase fish, and so lead to the reduction of the present high duties in those countries; and thus a trade might be opened up where now none exists. But whether the herring fishery increase or not, the white fishery must increase. A ready supply of good food will not be long neglected where there are the means of getting at it; and every facility and encouragement should be given to the fisherman to meet the demand with as little hardship and risk as possible to himself, and with as much economy as practicable to the consumer; and this alone low-water harbours can effect; and they in their turn would assuredly lead to the adoption of a better and safer class of boats."

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## XVI.

### MEMORANDA AS TO SEA FISHERIES.

The price of fish is not enhanced to the consumer by the payment of rent, owing to the property of fish being public. It only represents the labour of taking it, and the profit on the value of the machinery employed. But the comparative goodness, the scarcity of the article, and the demand for it, are elements that enter into its value. The fertility, or the barrenness of the sea, or of a river, diminish or raise the price of the commodity. At distant markets the price assumes a level. As any article in general use as food will range in value with that of other articles of corresponding quality, it is to be believed that any great increase of production from Fisheries will not diminish the profits of the calling, but that fish will always fetch a proportional and inferior price to the same weight of other animal food.

The herring fishery is the staple and important branch of the trade. Economy in the mode of smoking or curing this fish will reward the inventor. Or a process for neutralizing the over-saltiness of the cured article would bring red herrings into more general use.

The development of the fisheries on any large scale of national value depends upon the general home consumption of cured fish, or on an extended export of the article when cured in a superior manner. The sales effected by Government at their curing stations, during the famine, showed a profit of from 50 to 80 per cent. on the purchase, cure, and sale of fish, independent of the cost of the plant. The fishing companies established at Dunmore, near Waterford, are reported by the Commissioners as yielding a clear profit of from 10 to 13 per cent.



over and above all expenses, besides giving remunerative employment to the men engaged in them.

The mode by which the fisheries, as a trade, may be placed on a firm basis, is by the establishment of curing stations. The fitting out, and hiring out, deep sea boats, by persons who could exert a local attention, would often prove remunerative. Nets and gear should belong to the seamen.

Before forming a fishing establishment in any district, the first point to be ascertained is what sorts of fish principally abound there; for a different kind of boat, gear, and skill, are required for each. It is the want of paying due attention to this point, that has caused so many attempts to improve this branch of industry to prove abortive.—See *The Deep Sea and Coast Fisheries of Ireland*, by W. Brabazon, esq. 8vo, 1848.

Colonel Solomon Richards, governor of Wexford, in a brief history of the County, written in 1682, attributes the decayed state of that town—two-thirds being at that date in ruins—to the decline of the herring fishery, ‘which was so great, that about the year 1654, there were made, and entered into the custom-house, above 80,000 barrels of herrings, and ’twas thought above 40,000 more were made that were not entered. Which trade is so decayed, that about the year 1678, there was not above 200 barrels made in the whole towne, nor is there above 200 made this present year.’

A vast quantity of cured fish is annually imported into Ireland, although the use of this food may be said to be limited. By the Reports of the British Fisheries, there were imported during the years 1844 and 1845, 248,063 barrels of herrings, and 30,559 cwt. of cods, ling, and hake. The value of the former, at a late average price paid by the importer to the curer, would be 17s. per barrel; and of the latter, £12 per ton. According to this calculation, the curers received from this country in two years, for herrings, £210,853; and for cod, ling, and hake, £18,335—making together, £229,188. Therefore, in these items alone, a sum of £114,594, *annually*, was paid out of Ireland, for food which is abundant on its own shores. This is according to the cost price as paid to the curer; but when the expense of freight, and the profits of importers and traders are added, the consumers have been calculated to pay yearly the sum of about £161,062.

“Fish heads and bones are carefully preserved in Nordland, Finmark, and in Bergen’s Amt, and are boiled down to a soup, of which cows are exceedingly fond. In Bergen’s Amt, where more herrings or sprats are caught in any particular spot than there are barrels and salt to preserve, the fish are spitted on sticks, and hung up to dry; they are then generally devoured by the cows, which in many places subsist very much on this diet. If fish make a diet nutritive enough for a man, there seems no very good reason why they should not suit a cow, if she can be got to like them. It appears to be the plan here, not to wait until the cattle are starving, before giving them any of those articles in the room of hay or straw, but in all years, good or bad, to give them one or two of these warm feeds, weekly or daily. The animal at first has probably been driven by hunger to such food; but imitation would induce a whole stable of cattle to eat what one appears to relish. It is not likely that substitutes can be brought so far that the horse and his rider will sit down to a beef steak together,

although in Germany they take slice for slice of the brown loaf; but it is very possible that many a poor cottier in Scotland and Ireland, might save his cow in a backward spring, if he had spared fodder, by giving her one feed a-day of scalded sea-weed or fish heads, or any procurable substitute which he could give her a taste for."—*Appendix*, 1836, p. 187.

## XVII.

### CONDITION OF THE IRISH FISHERMEN.

The improvident habits of fishermen are a chief cause of the ill success of their calling. Those of Ireland are not so remarkable for enterprise, and for a steady prosecution of the business, as the English fishermen, especially in the deep sea trade. To incite them to more exertion, and to a diligent search for fish, a successful prosecution of fishing from off their *own* coasts would probably be the surest means.

Their great use of ardent spirits and of tobacco often renders them dissolute and indolent. These were the poison and ruin of the Australian savage, and of the American Indian, and are now the bane of the uneducated Celt.

Fishing in the Deep Sea is essentially different from that pursued along the coasts. To prosecute the trade successfully, a large class of boats is requisite. For example, the celebrated Nymph Bank, off the coasts of Waterford and Wexford, requires vessels of from forty to sixty tons. They should be provided with every kind of fishing gear, of the best kind, such as trawls, seines, herring and mackerel nets, long lines, &c., so as to be able to avail themselves of, and turn to the best advantage, any kind of fishing that might turn up. Their being well manned is also a necessary point. The profits of each boat will greatly depend on the experience of the skipper.

A highly profitable trade in deep sea fishing has, in the last few years, grown up at Dunmore, at the mouth of the estuary of Waterford. The construction of an excellent harbour for Her Majesty's steam packets has afforded shelter to craft, within access of the rich grounds in George's channel. From twenty to thirty boats of from thirty to forty tons have reaped a considerable harvest, and it is believed that an addition of twice or thrice that number would not diminish the returns. A large annual outlay takes place in the neighbourhood as a consequence of the trade.

The evidence given in 1836 as to the condition of the Claddagh fishermen, is interesting. They are described as assiduous and enterprising, and, although poor, superior in comforts and character to the labouring classes. The district then contained about 2,000 persons, nearly all the families of men whose earnings were derived from the sea. These families lived very peaceably, and great domestic morality existed among them. The fishermen never took any ardent spirits out to sea, but, after any unusual success, they sometimes indulged in liquor. None of them had any land, so that no other occupation interfered with their calling, or working at their boats and gear. Not more than one-sixth of their time through the year was spent at sea, but, with a better description of craft, and an improved system, their employment in actual fishing might have been more than doubled.



The evidence obtained as to the condition of fishermen in other parts of Ireland frequently alludes to the circumstance that the precarious and irregular nature of their employment, and the uncertainty and inequality of its profits, generated a corresponding irregularity in themselves, and caused them to be more addicted to the use of ardent spirits than was common with men following other occupations. They are reported as generally well conducted, and decidedly superior in bodily energy and other respects to the agricultural or manufacturing classes; but that their life, as one of danger and toil, and liable to excesses and reverses, was more open to excitement and temptation.

"The fishermen along the iron-bound coast from Loop Head to Galway, and about the mouth of the Shannon, use a canoe, a frame work of ash covered with canvas; these things are kept in the cliffs, and launched, hauled up, and shouldered with facility in places where no boat of wood could be used at all. They are about twenty-four feet long, about two and a half feet wide, and one and a half feet, or a little more, deep, and highly dangerous for unpractised people to get into at all, but in the hands of the natives do wonderful work, and the said natives will go to sea in them in weather that other people would not attempt in any open boat. A great number of them are now in the employ of the Dublin Fishing Company at Dingle, and they bring in more fish, in proportion to outlay, than, I believe, with any other species of vessel. The men are obliged to sit low down in them, and maintain the sitting position, which, for a whole night, is no joke, and perhaps none but the hardy Celt, (subject to starvation, privation, and hardship, without feeling it?) could endure the same. They go to sea in them with nothing beyond their fishing gear, save an iron pot for a fire-place, and turf to burn therein; their food the first fish they can catch, and if none is caught they do with an empty belly. They commonly carry four men, who pull two small sculls each, without any blade; the oars having wooden lugs or ears, are shipped permanently down on the gunwale. These canoes can compete in speed with our fastest gigs, provided the water be smooth, and no strong head-wind."

—*Lieut. Church, R.N., Fishing Boats' Report, 1849.*

### XVIII.

#### EXTRACT from an Article on the FISHERIES of IRELAND, in the "DUBLIN REVIEW," 1837.

The present depressed state of the Fisheries of Ireland has been attributed to the following causes:—the poverty of the Fishermen, their ignorance and prejudices, the want of shelter for their craft, injudicious laws and restrictions, and the frequency of wars.

Poverty is a charge which has been brought against fishermen in all ages of the world, from the *Ichthyophagi*, with whom Menelaus was condemned to mess during his disastrous voyage homewards from Troy, to the native Australians of our own days; yet, poor as the vocation is, it did not prevent the Dutch from embarking in it, and persevering in it so as to render it a source of comfortable subsistence for no small portion of their population, and of revenue and greatness to their country; neither has it prevented the population in many of

the maritime villages of England from procuring from it, for themselves and their families, if not the comforts enjoyed by the agricultural peasantry, at least a certain elevation in social existence, adequate to maintain them several degrees above that state of squalid destitution which the Irish peasant deems alone deserving of being branded with the name of poverty. The poverty of the Irish fisherman, therefore, does not proceed merely from his being of that vocation. It may tend to prevent his rising into some more profitable line of living; but it exerts no necessary influence to depress him into beggary. His ignorance, the second cause, is the natural—the necessary—result of his poverty; and as to his prejudices, they are but an additional link in this chain of causes and effects.

In confirmation of the position, that the destitution, ignorance, and prejudices of this class in Ireland arise from circumstances extraneous to their mode of life, we shall, instead of entering into abstract theoretical disquisitions, adduce the actual state of the fishermen of Claddagh, as given in "Hardiman's History of the Town of Galway," and shall make no apology for deviating somewhat from the direct course of our inquiry, because, while the episode is not without its connexion with the main subject, it serves to introduce to notice a genus, or, more correctly speaking, a variety of the *Homo Hibernicus*, little known, yet worthy of being studied from the singularity of its distinctive characteristics. Let the reader compare the following graphic description of the insulated village of Claddagh, insulated not physically but morally, for strictly speaking it is a suburb of the populous town of Galway, with his recollections of the inland Irish peasant, as painted by the still more graphic and equally accurate pens of Edgeworth, Carleton, or Inglis; and he must acknowledge that the former exists in a better, a purer moral atmosphere than his brother agriculturists and mechanics of the inland districts:—

"The Claddagh is a village in the western suburb of Galway, inhabited by about 3,000 individuals, who support themselves solely by fishing; they have no land attached to their cottages; a milch cow and a potato garden are equally rare among them. The colony, from time immemorial, has been governed by one of their own body, periodically elected, who is called the mayor, and regulates the community according to laws understood among themselves: his decisions are always final. When on shore, the villagers are occupied in fitting up their boats and tackle for the next expedition; and spend their leisure in regaling themselves with their favourite beverage, whiskey, or assembling in groups to consult about their maritime affairs. When preparing for sea, they take out potatoes, oaten bread, fire, and water, but no spirituous liquor. On returning from the fishing, where they are often absent for several days, they are met by their wives and female relations on the shore, to whom they hand over the whole of their capture, which forthwith becomes the sole property of the women, who dispose of it at pleasure, the men troubling themselves no further about it, and contenting themselves with what money is necessary for the repair of their boats, and whatever whiskey, brandy, and tobacco their wives choose to allow them. They are ignorant; they speak no language but Irish; they have no schools, contenting themselves and their families with the religious instruction they receive from the convent



church of the village, which is most liberally supported by them. So secluded and orderly are their general habits, that they are scarcely thought of in the town of Galway, on the borders of which they reside, except indeed on the festival of St. John, one of their great gala days, when the whole male community parade the streets, dressed in their holiday clothes, with banners flying, and other rural antic devices, to attract the attention, and excite the merriment of the spectators."

Here we see that the Claddagh men, so far from being in the state of necessity that goads almost irresistibly to vice and crime, live and have lived, from generation to generation, in comfort, and content, subject only to those occasional depressions which the vicissitudes of the elements, or general and sudden political changes, must produce upon them as well as on every other class which depends upon daily labour for subsistence; and therefore, must infer, that if the generality of the fishermen in other districts be different, the effect is attributable to circumstances unconnected with the nature of their employment.

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## XIX.

EXTRACTS from a PAPER delivered to the COMMITTEE of 1824, on the SALMON FISHERIES. By Sir G. S. MACKENZIE, Bart.

"As the streams forming the sources of rivers are the least liable to be affected by vicissitudes of weather, and as Salmon naturally push for these, it is of the utmost consequence to allow the early fish to escape, in order that they may reach them, and there deposit their spawn in safety.

"The Salmon has many enemies, which prey upon it at all the stages of its growth; and it is obvious that when these enemies happen most to abound, the Salmon will be more scarce than when the numbers of its enemies are reduced. While in the state of spawn, and when emerging from the ova, eels, pike, trout and birds, devour the young. The water ousel, though a small bird, appears indefatigable in its search for the spawn of Salmon and other fish. Every kind of water fowl is destructive of spawn, and of the young fry. The otter destroys considerable numbers of grown fish, and this enemy may be more numerous than is commonly supposed, as he does not expose himself much to observation.

"But these enemies are of little consequence when compared to those which the fry have to encounter in the sea, and the Salmon on its way to the rivers. It is impossible to protect the fry from natural enemies in the sea, but I think much may be done to save the Salmon from the attacks of the porpoise and seal. The former of these is often confounded with the grampus, which is much larger, and is not so numerous, though more indiscriminately voracious. The porpoise is seldom more than seven feet long, while the common grampus reaches to twenty-five feet. While the porpoise will repay the trouble of capture, the grampus is of little value. A porpoise, it is said, will yield a hogshhead of oil, and its flesh was in former times eaten at the tables of the rich. The skin is said to be valuable for making leather. The value of the seal is well known; it is very destructive of Salmon, and follows them even into the fresh water. Hitherto no adequate means have

been adopted for taking either the seal or the porpoise, and it will be necessary that a bounty should be given to encourage their being destroyed. It has occurred to me that both, and also grampuses when they come up the estuaries in pursuit of Salmon, might be easily taken by a method similar to that by which a large species of shark is captured in Iceland. Bait is put upon stout hooks fixed to small chains, four or five feet long, to which a line is attached, with a buoy, and the whole is fastened to a small anchor; were similar hooks baited with Salmon to be anchored across estuaries, or even fastened to stakes or stones at low-water mark, it is certain that great numbers might be taken."

[An engraving accompanies this paper, to show the method proposed for taking these animals.]

"The time for opening the rivers should be regulated by the time of the descent of the fry and foul fish. In the rivers with which I am acquainted, the descent is seldom accomplished till towards the end of April; and as far as I know, this is the case with most rivers in Scotland. If the close time were to continue till the 10th or 15th of April, all the fry and foul fish, at least the greatest bulk of them, will have descended, and a sufficient number of early fish will have passed up. \* \* \*

"The last method of taking Salmon which I have to mention is the stake-net; and I understand it to be a chief object with the Committee to ascertain whether this engine, when placed in the sea, be injurious to the river fishings. I trust that the statement I am now to make will prove me conscious of no other feeling than that of perfect impartiality, and that I have more regard to truth than to interest. It has been hinted to me that stake-nets might probably turn to some account, if erected on some parts of my property on the west coast of Ross-shire. I am in utter ignorance of the capabilities of my small portion of the coast; but allowing myself to anticipate some benefit should stake-nets be made legal, I am much more deeply interested in the river fishings on the eastern coast. Being thus in a manner placed in a situation to plead for two opposite interests, I am aware that my testimony may appear to be given purposely to serve both; but my opinions were formed before I was aware that I could have any interest in the stake-net fishing. I will state what I know to be truth, and my opinions are formed on well-ascertained facts; and though what I am to state contains much that is against stake-nets, I begin by mentioning that I am far from being hostile to the extension of the sea fishery, provided it be placed under strict regulation.

"With respect to stake-nets, as now used, being injurious to the Salmon fry, they are so unquestionably near the mouths of rivers and in narrow estuaries; but if properly stretched in the manner I will describe, they could not do the smallest injury to the fry. The passage of the fry happens at different times in different seasons, and does not take place all at once in any year; sometimes fry are seen so early as January in the Tay, as I have been informed by good authority, and continue till the end of May; but generally the great bulk of the fry passes in April, as is the case in the rivers of the north of Scotland. I have heard the fact so often stated by persons of credit, that I have no doubt that stake-nets detain the fry. But, as already



remarked, the fry could not be stopped if the nets were properly stretched. And even if this did not prevent the destruction of fry, it is an easy remedy to prohibit stake-nets being erected till May within estuaries. But the principal fact to be ascertained is, whether Salmon bred in a river uniformly and certainly return to it. That they do, is, I think, beyond dispute; not only so, but that each river has its own variety or tribe of fish. I know more than even that; for it is a fact that *three varieties* of Salmon, quite distinct from each other, enter the river Conan, and that two of these belong to its two branches. I once happened to be angling below the junction of the lowest branch, with a party of strangers on a visit to the late Lord Seaforth, at Braham Castle, when by a singular chance I killed three Salmon, one of each variety, and I showed them to the gentlemen with me. The variety that belongs to the main river is a handsome fish, being considerably broader in proportion to its length than the others. That belonging to the lower branch, the river Orrin, is a long lank-looking fish, and is little esteemed when compared to the others. The Salmon of the upper branch, the river Rassay, or the Black Water, are more round and full, and reckoned the best of the three varieties. It consists with my own knowledge, that at least two varieties go up the Dornoch Firth, one of which is the remarkably large and coarse variety, bred in the river Shin. I have no doubt that if the members of the Committee will take the trouble to compare the Salmon exposed for sale in the fish shops of the Metropolis, they will see enough to satisfy them that there are varieties of Salmon. Seeing that a peculiar and well-marked variety uniformly ascends the river Rassay—the fishing of which belongs to me exclusively—and that the fish of the other streams connected with it are easily distinguished, I may here remark, that if stake-nets or sea fishing were to be prohibited on the ground that it would deprive the rivers of fish, I might then with justice demand, that the River Conan should not be fished below the junction of my branch of it, on the ground that a vast number of my fish, bred in my own river, would be captured. The Committee will give what weight they please to this remark. From what I have stated I have no manner of doubt whatever, that every Salmon found in the sea, whether in estuaries or in the ocean, belongs to some river or other. Hence all Salmon caught in the sea—though it may be perhaps impossible to tell to what river they belong, unless when the variety is well marked—certainly would have entered some river had they not been intercepted. The conclusion is, that stake or other nets in the sea deprive some river or rivers of as many fish as they take. From what is known of the habits of the Salmon, I believe this as firmly as if I had attended every Salmon in the sea to its own river. Some ignorant and interested persons have been heard to affirm that the Salmon spawns in the sea; this has never been observed, and it is not possible; for if spawn were to be deposited in salt water, as before observed, it would perish. If it were true, the Salmon would not enter the rivers at all. It has been said, that stake-nets intercept but very few Salmon that would go into a river; that most of those taken would have been devoured by porpoises and seals, or have gone out to sea again, and have been lost. Granting the first allegation to be true, it is not an argument in favour of

stake-nets, but a powerful one against them; for it is absurd to suppose, that because the seals and porpoises are deprived of what they would have eaten, they would refrain from pursuing Salmon. They are only driven by this deprivation to devour what would have escaped them had the stake-nets been out of the way; and thus all the Salmon taken in a stake-net are a clear loss to the rivers, which cannot make it up as the porpoises and seals do. With respect to the other allegation, that the stake-nets capture only such fish as would go out to sea and not enter the rivers, I do not believe it. It is attempted to be proved by fish being caught both during the flow and the ebb of the tide. This, however, proves nothing; because the Salmon do not all make directly, in a straight line, for the river, but swim in all parts of an estuary indifferently. If they did not, but kept the main channel, they never would come to the stake-net at all. The fish coming up with the tide, if they do not reach the river before the tide turns, drop down and renew their attempt with the help of the next tide. They may be turned for a time by their foes; but whatever be the cause of their wanderings, their instinct impels them towards the river sooner or later, which they will enter or perish; and when they do enter a river they will not leave it, if they be not removed, until after they have deposited their spawn. All Salmon are either male or female; and therefore it is absurd to suppose that they do not all equally feel the impulse to ascend the rivers; could it be proved that there were neuters among them, some arguments that have been advanced by interested persons might be of some weight in favour of sea fishings. That Salmon, when they meet obstacles in a river which they cannot surmount, drop down into the pools, and remain there until a supply of water induces them to make another attempt to advance, I know from repeated observation during my practice as an angler. But I consider it as certain that no Salmon, having entered an estuary or a river, and been put back by any cause, ceases in its endeavours to return. There can be no doubt, then, that stake-nets, whether placed in the ocean or in estuaries, deprive the rivers of fish to the full amount of the capture.

"I am by no means disposed to resist persons, who are already possessed of chartered rights to fish in the sea, from using the stake-net, properly regulated. Nor do I conceive that persons who have rights to fishings, and no waters to fish in but the sea, can be equitably excluded from exercising their rights in the sea, and taking whatever fish may come in their way, Salmon as well as others. If the spawn and fry of Salmon, and the growing fish, be properly preserved, there will be enough for all, as many as can be taken. As Salmon from the salt water are vastly superior in quality to fish that have been some days in rivers, I do not see why the interest of the public should not be attended to by encouraging sea fishing. But as it would be going too far, and unfair, to allow persons who have *no right* to fishings to interfere, or to grant *new charters*, no one should be suffered to take Salmon in the sea without being able to show a distinct clause in their charters, granting the right, nor to have more than one net on their property. The Board of Commissioners which I have suggested might have power to inspect the charters of persons who erect stake-nets,



when required to do so by any one having interest. I would strongly recommend, however, that no stake-nets should be allowed, until after the measures which the Committee may recommend to the Legislature shall have taken full effect in restoring the former supply to the rivers."

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## XX.

COOKERY OF SALMON.—So much having been written on the question of catching salmon, the reader may well be referred to Monsieur Soyer's advice as to how to cook it. It may be observed, that the usual mode of killing this fish when taken in a net is injurious to its keeping properly; it is usually killed by blows on the head, or on the nose, a slight tap on which is fatal. In this way the blood is left in—but the blood will run if the vein under the tail is cut, and the fish will keep better. Salmon is the venison, as red-mullet has been termed the wood-cock, of waters. The former, to be eaten in perfection, should certainly be kept until it has a flavour that does not pertain to it when too fresh. Most fish depend on their sauce; the salmon requires an acid and strong condiment. Drive down to the "Crown and Anchor" at Greenwich of a June afternoon, and order your "Cotelettes de saumon à l'Indienne."

M. Soyer writes—"The male is the finest flavoured fish, and has more curd than the female. Of late years it has been considered that this fish should be eaten as fresh as possible, for which purpose it is crimped when alive, that it may be flaky, and the curd in it. In former times it was considered best to keep it two or three days; it is certain, that in keeping it, the curd undergoes a change, which produces a volatile salt, and oily balsamic particles, that renders it nutritive and invigorating. This fish, when out of season, may be distinguished by having large scarlet, purple, and blue spots on its sides, the male snout long, the female snout hooked. (?) When in season the colour ought to be a silvery pink grey; when cooked, the flesh should be of a dark rose colour; when out of season it is pale. Small headed fish are the best."—*The Modern Housewife. By Alexis Soyer, 1850.*

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## XXI.

SPAWNING PLACES IN SIBERIA.—I am indebted for the following description of the spawning beds of the salmon in Kamschatka, to W. D. Cooley, esq., the translator of M. Erman's instructive travels in the northern Asiatic continent, taken from the third volume of the tour, which remains unpublished in a translated form. In the two volumes which have been translated by Mr. Cooley, curious accounts will be found of the river fisheries of Siberia, which are the most productive in the world. In the remaining volume, containing M. Erman's visit to Kamschatka, there are many passages alluding to the habits of the salmon. He states that this fish, during the process of spawning, press their jaws together so forcibly, that they cannot feed, and must consequently die.

"In the spring-river of the Buistraya, the salmon were in crowds, although the stony bed of the rivulet was but three paces wide, and

even in clear places not above six inches deep. Many fish as long as my arm were still struggling here up against the strength of the current; others appeared so fatigued that they staid under our horses' hoofs, if we rode into the water, and countless numbers were already dead, knocked to pieces against the stones. Then too I saw for the first time, in a river of Kamschatka, an astonishing multitude of this year's young. They were some a finger long, some of double that size, and remained in the quiet deep pools along the banks of the rivulet, behind roots or other accidental obstructions. Here, accordingly, it appeared as if nothing but the desire of suitable spawning-places drove the salmon every year from the sea to the vicinity of the springs, though this view of the matter still leaves the remarkable phenomenon in many respects unexplained; for it is hard to discover any great advantages which the strong and violent rivulet possesses over the lower course of the stream. The more constant temperature of the mountain waters, hardly amounting, nevertheless, to 3° Reaumur, 37·75 Fahrenheit, and the later entrance of the frost into them, do not appear to hold out any great advantages to fish, which are already fully formed in the warm season, and must renounce the far more abundant food and the softer bottom which they would be sure to find everywhere lower down in the same river. But besides, the exclusive, or even general spawning, in spring-waters seems inseparable from a great if not unexampled destruction of living germs. In fact, it is quite evident that every year much more than half of the new generation is lost, if we are to suppose that the old fish which we saw dead in the middle part of the river's course, deferred depositing their roe till the end of their intended migration, and so become converted, themselves and their posterity, into food for bears and dogs."

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## XXII.

SEA FISHERIES.—Having been lately favoured with communications from a gentleman who is conspicuous for promoting a successful prosecution of the Deep-Sea fishing trade, the following memoranda from them are subjoined:—

The writer premises by observing that most persons appear under the impression that Fishing is a very simple art—readily acquired by any person—even the most ignorant, and that it consists in merely casting a line or a net into the water, and bringing the produce to land. But it is actually as diverse in its operations, and requires as great a variety of implements and skill in using them, as the numerous handicrafts connected with the manufacture of wood work. In consequence of this erroneous idea, our poor peasantry are not unfrequently upbraided with idleness and laziness, because they do not gather up the wealth that abounds on our shores. Adam Smith likewise tells us, that from time immemorial fishermen have been poor and improvident; and so doubtless they will continue to be, wherever this branch of industry is not pursued as a *regular trade*, conducted on *sound* and *correct* principles. Sea fishing, to be profitable, must be based on this fundamental rule, as the foundation stone. It is owing to the non-adherence to this rule, that the large sums granted by Government during



the past thirty years, for promoting and extending the Irish fisheries, have been so singularly unproductive of beneficial results.

The writer considers that 'the capturing of Fish in the sea should be perfectly free and unrestricted, and that parties thus engaged should be allowed to introduce and use all improved modes and engines without restraint or limitation;—for if sea fishing is to be remunerative,—(and unless it is so, no person will follow it as a trade,)—the great object to be kept in view is to take the largest quantity of fish with the smallest expenditure of labour and capital.' Without proposing to enter into the difficult question of the expediency of restrictions, and entertaining great deference to the opinion of the writer, it may be observed that a mass of evidence exists as to the injurious effects of drag nets on the spawn of fish, and in driving away the shoals of herrings. It is also remarked, that the Irish fisherman should be allowed the same measure of freedom in pursuing his calling, and using improved engines, as is enjoyed by his fellow craftsmen in Great Britain.

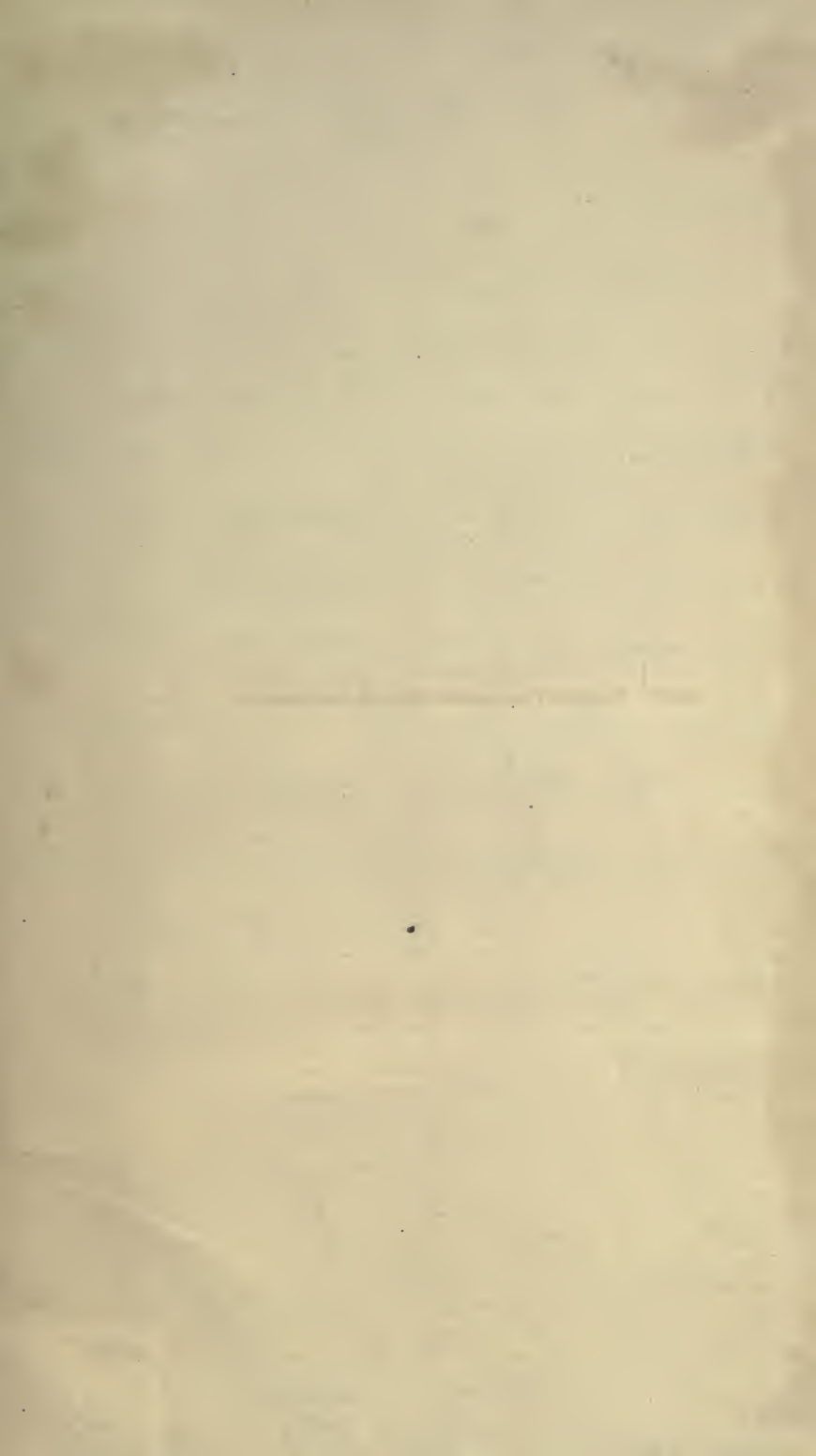
The six Reports from the district of Ring, in the county of Waterford, are referred to, as comprising the questions of removal of restrictions, practical Instructors, small loans, improved boats, &c.—and also fishing charts. Upon the latter point the writer states with gratification, that the Admiralty has responded to the request made to them, and that a naval officer of much hydrographical experience, who has been long engaged on the coast survey of Ireland, has received instructions to examine the different banks that lie to the south. Government assistance is not recommended, excepting in the construction of Piers. 'What is mainly wanted for the successful prosecution of Sea fishing, besides the removal of restrictions, is Self-reliance.'

An interesting experiment is now in progress on a part of the coast of Cork, under the enterprising and benevolent exertions of some natives of Scotland, for the formation of a fishing establishment, principally through means of a curing station, and the employment of the native fishermen. Its success must chiefly depend on the activity of the latter, on their physical and moral condition, and on their means and appliances for taking fish. These men are represented as being in a state of destitution, and as unfit to endure exposure to weather, being without adequate clothing and shoes. The assistance of a loan fund, under sufficient security and stringent regulations, might perhaps here be brought in.

The two last Reports, the fifth and sixth, to September, 1849, from the Ring district, ('*Facts from the Fisheries*,' Waterford, 1849,) may be referred to by any who would seek to improve the condition of a fishing community on the coast by an economic system of assistance. A great improvement is reported in the condition and appearance of the Fishermen and their families, their boats and fishing gear were in good order and active operation, their dwellings were in a state of comfort, and the whole place was found to be wearing a thriving aspect. The value of the stock of salt fish retained by these men, who had formerly been in a miserable condition, for their own use during Lent, was calculated at upwards of £1,200! This, besides what had been sold, had all been caught within a few previous weeks by trammel nets, supplied by means of small loans to the crews of twenty-one boats.

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Blennerville Castle N. Ireland  
June 18. 1863

My dear Sir,

I hope I shall have a chance in  
my favor regarding the river, although  
I have only taken six fish during  
the last 11 weeks. We caught  
a Ling weighing 35 lbs and  
inside him found as the  
hardly a scratch on him!  
tell this to the wise ones  
at the "House" who wish to  
know what become of the salmon.  
Yrs &c  
Wm Leman Esq.

Antoin

Wm Leman Esq. Esq. Esq.





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